

No. 11533

2625

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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STEPHEN SORRENTINO, also known as  
VINCENT SORRENTINO,  
Appellant,  
vs.

UNITED STATES OF AMERICA,  
Appellee.

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Transcript of Record

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Upon Appeal from the District Court of the United States  
for the Northern District of California,  
Southern Division

FILED



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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## NAMES AND ADDRESSES OF ATTORNEYS

WALTER H. DUANE,  
790 Mills Bldg.,  
San Francisco,  
Attorney for Appellant.

FRANK J. HENNESSY,  
United States Attorney,

JAMES T. DAVIS,  
Assistant United States Attorney,  
Attorneys for Appellee.

In the Southern Division of the United States  
District Court for the Northern Division  
of California

No. 30317-G

UNITED STATES OF AMERICA

vs.

VINCENT SORRENTINO

INDICTMENT

First Count

(Harrison Narcotic Act, 26 U.S.C. 2553 and 2557)

The grand jury charges:

That Vincent Sorrentino, on or about the 16th day of August, 1945, in the City and County of San Francisco, State of California, unlawfully did sell, dispense and distribute not in or from the original stamped package, a lot of smoking opium, in quantity particularly described as one 5-tael can of smoking opium.

Second Count

(Jones-Miller Act, 21 U.S.C. 174)

The grand jury further charges:

That at the time and place mentioned in the first count of this indictment, said defendant fraudulently and knowingly did conceal and facilitate the

concealment of said lot of smoking opium, in quantity particularly described as one 5-tael can of smoking opium, and the said smoking opium had been imported into the United States [1\*] of America contrary to law as said defendant then and there knew.

A true bill.

HAROLD C. CLOUDMAN,  
Foreman.

/s/ FRANK J. HENNESSY,  
United States Attorney.

(Approved as to Form: R. B. McM.)

[Endorsed]: Filed June 19, 1946. [2]

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[Title of District Court and Cause.]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Friday, the 28th day of June, in the year of our Lord one thousand nine hundred and forty-six.

Present: The Honorable Louis E. Goodman,  
District Judge.

### ARRAIGNMENT

This case came on regularly this day for arraignment. The defendant Stephen Sorrentino was present with his attorney, Walter Duane, Esq. E. H.

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\* Page numbering appearing at foot of page of original certified Transcript of Record.

Henes, Esq., Assistant United States Attorney, was present on behalf of the United States.

On motion of Mr. Henes, the defendant was called for arraignment. The defendant was informed of the return of the Indictment by the United States Grand Jury, and asked if he was the person named therein, and upon his answer that he was, and that his true name was as charged, thereupon Mr. Duane waived the reading of the Indictment.

On motion of Mr. Duane and with consent of Mr. Henes, it is ordered that this case be continued to July 15, 1946, to plead. [3]

---

[Title of District Court and Cause.]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Tuesday, the 23rd day of July, in the year of our Lord one thousand nine hundred and forty-six.

Present: The Honorable Louis E. Goodman,  
District Judge.

### PLEA

This case came on regularly this day for entry of plea. The defendant, Stephen Sorrentino, was present with his attorney, Walter Duane, Esq. Reynold H. Colvin, Esq., Assistant United States Attorney, was present on behalf of the United States.

The defendant was called to plead and thereupon

said defendant pleaded "Not Guilty" to the Indictment filed herein against him, which said plea was ordered entered.

After hearing the attorneys, it is ordered that this case be continued to September 11, 1946, for trial. (Jury.) [4]

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[Title of District Court and Cause.]

**MOTION FOR THE RETURN OF SEIZED  
PROPERTY AND THE SUPPRESSION  
OF EVIDENCE**

Stephen Sorrentino, named in the above entitled action as Vincent Sorrentino, hereby moves this Court to direct that certain property of which he is the owner, a schedule of which is annexed hereto, and which on the 21st day of June, 1946, at the premises known as 2619 38th Avenue in the City and County of San Francisco, State of California, and within the District of the above entitled Court, was unlawfully seized and taken from him by the deputies of the United States Marshal for this District, as well as certain Federal narcotic agents, all of whose true names are unknown to petitioner, be returned to him and that it be suppressed as evidence against him in any criminal proceeding.

That petitioner further states that the property was seized against his will and without his consent and without a search warrant.

**WALTER H. DUANE,**  
Attorney for Petitioner. [5]

## SCHEDULE OF PROPERTY SEIZED

1940 Pontiac six coupe, Engine No. 6-604828.  
Receipt of Service.

[Endorsed]: Filed Aug. 1, 1946. [6]

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[Title of District Court and Cause.]

NOTICE OF MOTION FOR THE RETURN OF  
SEIZED PROPERTY AND THE SUP-  
PRESSION OF EVIDENCE.

To Frank J. Hennessy, Esq., United States Attor-  
ney for the Northern District of California:

You will please take notice that the defendant  
above named will on Wednesday, August 14, 1946,  
at the hour of 10:00 o'clock a. m. of said day, or  
as soon thereafter as counsel can be heard, move the  
above entitled Court for an order directing the re-  
turn of property taken from the defendant and for  
the suppression of evidence.

Said motion will be made under Rule 41 of this  
Court and will be based upon all of the records,  
papers and files in the above entitled cause and  
upon oral testimony.

WALTER H. DUANE,  
Attorney for Defendant.

Receipt of Service.

[Endorsed]: Filed Aug. 1, 1946. [7]

[Title of District Court and Cause.]

At a stated term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Wednesday, the 14th day of August, in the year of our Lord one thousand nine hundred and forty-six.

Present: The Honorable Louis E. Goodman,  
District Judge.

**ORDER DENYING MOTION FOR RETURN  
OF PROPERTY AND TO SUPPRESS EVIDENCE.**

This case came on regularly this day for hearing of motion for return of property and to suppress evidence. The defendant was present in Court. After hearing Walter Duane, Esq., attorney for defendant, and James T. Davis, Esq., Assistant United States Attorney, it is ordered that said motion for return of property and to suppress evidence herein be and the same is hereby denied. [8]

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[Title of District Court and Cause.]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Tuesday, the 14th day of January, in the year of our



Lord one thousand nine hundred and forty-seven.

Present: The Honorable Louis E. Goodman,  
District Judge.

### MINUTES OF TRIAL

This case came on regularly this day for trial. James T. Davis, Esq., Assistant United States Attorney, was present on behalf of the United States. The defendant, Stephen Sorrentino, was present in Court with his attorney, Walter Duane, Esq. Thereupon the following persons, viz: Eulita D. Hogle, Mrs. Allen O. Newman, Giuseppe S. Giacomini, Florence Haller, Judson E. Bardwell, William Peoples, George O. Smith, William T. Campbell, Helen MacIntosh, Theodore B. Byran, Marjorie Grabhorn, Percy E. Herrill, twelve good and lawful jurors, were, after being duly examined under oath, accepted and sworn to try the issues joined herein. Mr. Davis made an opening statement to the Court and jury on behalf of the United States. R. F. Love, William H. Grady and Jacob Lieberman were sworn and testified on behalf of the United States. Mr. Davis introduced in evidence and filed U. S. Exhibit No. 1. Mr. Duane introduced Defendant's Exhibit A, which was marked for identification [9] purposes. The United States thereupon rested.

Mr. Duane made a statement to the Court and jury on behalf of the defendant. Josephine Priest, Bernard A. Reichling, Georgia Beckwith and Ward



Frederick Beckwith were sworn and testified on behalf of defendant.

The hour of adjournment having arrived, it is Ordered that the further trial of this case be continued to January 15, 1947, at 10 o'clock a. m. [10]

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[Title of District Court and Cause.]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Wednesday, the 15th day of January, in the year of our Lord one thousand nine hundred and forty-seven.

### MINUTES OF TRIAL; SENTENCE

Present: The Honorable Louis E. Goodman,  
District Judge.

The parties hereto and the jury impaneled herein being present as heretofore, the further trial of this case was this day resumed. Isadore Cherney and Stephen Sorrentino were sworn and testified on behalf of the defendant. Mr. Duane offered Defendant's Exhibit B, which was marked for identification purposes only. The defense thereupon rested. Thomas E. Maguire was sworn and testified as a rebuttal witness on behalf of the United States. Both sides thereupon rested. After hearing the arguments of the attorneys and the instructions of

the Court, the jury retired at 3:35 p. m. to deliberate upon its verdict. At 4:55 p. m. the jury returned to the Courtroom for further instructions and again retired for further deliberations, at 5:15 p. m. At 6:30 p. m. the Court ordered that the United States Marshal take the jury and two (2) Deputy Marshals to supper, and thereupon the jury [11] and Deputy Marshals went to supper and returned at 8:00 p. m. and resumed its deliberations. At 8:25 p. m. the jury returned into Court and upon being asked if it had agreed upon a verdict, replied in the affirmative and returned the following verdict which was ordered recorded, viz:

“We, the jury, find Stephen Sorrentino, the defendant at the bar, guilty as to Count One of the Indictment, guilty as to Count Two of the Indictment.

GEO. O. SMITH,  
Foreman.”

The jury upon being asked if the said verdict as read was its verdict as recorded is the verdict of the jury, each juror upon being being polled replied that it was. Ordered that the jury be excused from the further consideration hereof and that the jurors be excused until notified to report. Mr. Duane, attorney for defendant, made a motion for a new trial and a motion in arrest of judgment, which motions were ordered denied.

The defendant was then called for judgment. After hearing the defendant and the attorneys, and

the Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is adjudged that the defendant Stephen Sorrentino is guilty as charged and convicted.

It is adjudged that the defendant Stephen Sorrentino, for the offense of which he stands convicted on the verdict of the jury of guilty as to Counts One and Two of the Indictment, be and he is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count One of the Indictment; and ten (10) years and pay a fine to the United States of America [12] in the sum of one thousand (\$1,000.00) dollars on Count Two of the Indictment.

It is further ordered that the terms of imprisonment imposed on Counts One and Two of the Indictment run concurrently.

Ordered that judgment be entered herein accordingly.

It is further ordered that the Clerk of this Court deliver a certified copy of the judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

The Court recommends commitment to an institution of the Penitentiary type. [13]

[Title of District Court and Cause.]

We, the Jury, find Stephen Sorrentino, the defendant at the bar, guilty as to Count One of the Indictment. Guilty as to Count Two of the Indictment.

GEO. O. SMITH,  
Foreman.

[Endorsed]: Filed at 8 o'clock and 25 Min.  
p. m., Jan. 15, 1947. [14]

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[Title of District Court and Cause.]

### MOTION FOR A NEW TRIAL

Now comes the defendant, Vincent Sorrentino, in the above entitled action and moves this Honorable Court for an order vacating the verdict of the jury convicting him and granting him a new trial on the indictment herein, for the following, and each of the following causes, materially affecting the constitutional rights of said defendant:

1. That the verdict is contrary to the evidence adduced at the trial herein;
2. That the verdict is not supported by the evidence in the cause;
3. That the evidence adduced at the trial is insufficient to justify said verdict;
4. That the verdict is contrary to law;

5. That the trial court erred in admitting evidence in the course of the trial which was incompetent, irrelevant and immaterial, which errors were duly and regularly excepted to by the defendant.

This motion is made upon the minutes of the Court and upon all records and proceedings in said action and upon all of the testimony and evidence introduced at the trial.

Dated: January 15th, 1947.

WALTER H. DUANE,  
Attorney for Defendant.

[Endorsed]: Filed Jan. 15, 1947. [15]

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[Title of District Court and Cause.]

### MOTION IN ARREST OF JUDGMENT

Now comes Vincent Sorrentino, the defendant in the above entitled action, against whom a verdict of guilty was rendered on the 15th day of January, 1947, in the above entitled cause, and moves the Court to arrest the judgment against him and hold for naught the verdict of guilty rendered against him.

1. That the indictment and each Count thereof does not state facts sufficient to constitute a public offense under the laws of the United States;

2. That the evidence is not sufficient to support the verdict;

3. That the verdict of the jury is contrary to law.

Wherefore, because of which said errors in the record herein, no lawful judgment may be rendered by the Court and the defendant prays that this motion be sustained and the judgment of conviction against him be arrested and held for naught, and that said defendant have all such other orders as may seem meet and just in the premises.

Dated: January 15th, 1947.

WALTER H. DUANE,  
Attorney for Defendant.

[Endorsed]: Filed Jan. 15, 1947. [16]

District Court of the United States for the  
Northern District of California  
Southern Division

No. 30317-G

UNITED STATES OF AMERICA

vs.

STEPHEN SORRENTINO

JUDGMENT AND COMMITMENT

On this 15th day of January, 1947, came the attorney for the government and the defendant appeared in person and by counsel.

It is adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of violation of Harrison Narcotic Act, 26 USC., Secs. 2553 & 2557; & Jones-Miller Act, 21 USC., Sec. 174; defendant did, on or about August 16, 1945, in San Francisco (Ct. 1), unlawfully sell, dispense and distribute smoking opium, (Ct. 2) defendant did, at above time and place, fraudulently conceal and facilitate the concealment of smoking opium, as charged in Cts. 1 & 2 of Indictment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is adjudged that the defendant is guilty as charged and convicted.



It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count One on the Indictment; and ten (10) years and pay a fine to the United States of America in the sum of one thousand dollars (\$1,000.00) on Count Two of the Indictment.

It is further ordered that the terms of imprisonment imposed in Counts One and Two of the Indictment commence and run concurrently.

Entered in Vol. 37 Judg. and Decrees at page 655.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

LOUIS E. GOODMAN,  
Judge.

Examined by:

JAMES D. DAVIS,  
Asst. U. S. Attorney.

The Court recommends commitment to institution of penitentiary type.

Filed and entered this 15th day of January, 1947.

C. W. CALBREATH,  
Clerk,

L. R. ELKINGTON,  
Deputy Clerk. [17]



[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and address of appellant: Vincent Sorrentino, 2619 38th Avenue, San Francisco, California.

Name and address of appellant's attorney: Walter H. Duane, 790 Mills Building, 220 Montgomery Street, San Francisco 4, California.

Offense: Violation of Harrison Narcotic Act, 26 U.S.C. 2553 and 2557 in the First Count of the Indictment; violation of Jones-Miller Act, 21 U.S.C. 174 in the Second Count of the Indictment.

After trial by jury a verdict was returned finding the defendant guilty on both counts of said indictment on the 15th day of January, 1947.

That thereupon, on the said 15th day of January, 1947, defendant made a motion for a new trial which motion was denied, and thereupon made a motion in arrest of judgment which motion was denied, and the Court thereupon made its judgment and sentenced the defendant as follows:

Five years on the First Count,

Ten years on the Second Count,

Fined \$1,000.00 on the Second Count.

The sentences in the First Count and Second Count to be served concurrently; the total sentence being ten years imprisonment and a fine of \$1,000.00. [18]

Name of prison where now confined: County Jail of the City and County of San Francisco.

That defendant appeals from the judgment of conviction and from the order denying his motion for a new trial.

Dated: January 22nd, 1947.

WALTER H. DUANE,  
Attorney for Defendant.

Receipt of Service.

[Endorsed]: Filed Jan. 22, 1947. [19]

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District Court of the United States  
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 19 pages, numbered from 1 to 19, inclusive, contain a full, true, and correct transcript of the records and proceedings in the cause of United States of America vs. Stephen Sorrentino, No. 30317-G, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on

appeal is the sum of nine dollars and that the said amount has been paid to me by the Attorney for the appellant herein.

In witness whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 20th day of February, A. D. 1947.

[Seal]

C. W. CALBREATH,  
Clerk,

/s/ E. H. NORMAN,  
Deputy Clerk. [20]

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In the Southern Division of the United States  
District Court for the Northern District  
of California

Before: Hon. Louis E. Goodman, Judge.

No. 30,317-G

UNITED STATES OF AMERICA

vs.

STEPHEN SORRENTINO,

Defendant.

REPORTER'S TRANSCRIPT

Tuesday, January 14, 1947

Counsel Appearing:

For the United States: James T. Davis, Esq.,  
Assistant United States Attorney.

For the defendant: Walter H. Duane, Esq.

(A jury having been impaneled and sworn

to try the above-entitled cause, the opening statement by the United States Attorney having been made, the following proceedings were had):

R. F. LOVE

called as a witness on behalf of the Government;  
sworn.

The Clerk: Will you state your name?

A. R. F. Love. [1\*]

Direct Examination

Mr. Davis: Q. Doctor Love, what is your occupation?

A. Chemist, Internal Revenue Bureau.

Q. How long have you been engaged in that occupation? A. Twenty-eight years.

Q. As part of your official duties, is it necessary for you at times to perform tests upon various substances submitted to you for the purpose of determining whether or not the substances are narcotics?

A. It is, yes.

Mr. Davis: May I have this can marked for identification?

(The can was marked U. S. Exhibit 1 for Identification.)

Mr. Davis: Q. Doctor Love, I will show you Government's Exhibit No. 1 for Identification, and ask you if you have ever seen this can before.

A. I have.

Q. When did you first see it?

A. On August 18, 1945.

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\* Page numbering appearing at top of page of original Reporter's Transcript.

(Testimony of R. F. Love.)

Q. From whom did you receive it?

A. From Narcotics Officer Grady.

Q. Did you make a test of the contents of that can?      A. I did.

Q. In accordance with your usual practice, as you have testified?      A. I did. [2]

Q. What did you determine the contents of that can to be?

A. Found it contained smoking opium.

Q. Did you make any quantitative test?

A. No.

Q. But the contents of the can are smoking opium?      A. Yes.

Q. Has that can been in your continuous possession until produced today at this trial?

A. It has, yes.

Mr. Davis: That is all.

Mr. Duane: No questions.

Mr. Davis: May Dr. Love be excused?

Mr. Duane: Yes.

The Court: We will take the morning recess at this time. Ladies and gentlemen, it is customary to take a recess in the middle of the morning session and in the middle of the afternoon session of five to ten minutes. We will take the morning recess in this case at this time. During those times that you are absent from the courtroom and during the trial of this case, either at noon time or after adjourning finally for the day, or in the recesses, it is your duty not to converse among yourselves or with any other person on any subject connected with

the trial of the case, nor are you to form or express any opinion concerning the case until it is left in your hands for [3] decision. We will take the morning recess at this time.

(Recess.)

The Court: The jurors are all present. You may proceed.

Mr. Davis: Call Mr. Grady.

---

WILLIAM H. GRADY

called as a witness on behalf of the Government,  
sworn.

The Clerk: Will you state your name to the court and jury?

A. William H. Grady.

Direct Examination

By Mr. Davis:

Q. Mr. Grady, what is your occupation?

A. I am an agent of the Federal Bureau of Narcotics.

Q. How long have you been engaged in that occupation?

A. Approximately four and a half years.

Q. Do you know the defendant in this case, Stephen Sorrentino?      A. Yes.

Q. How long have you known him?

A. I have known Stephen Sorrentino by sight since 1943.

Q. Directing your particular attention to the

(Testimony of William H. Grady.)

16th day of August, 1946 (1945)—the 15th day of August, 1946 (1945), did you have occasion to see him on that day?       A. Yes.

Q. When did you first see him on that day?

A. I saw him in the basement of the Uptown Hotel.

Q. Who, if anyone else, was present with him at the time you [4] saw him?

A. There was a Government informer present.

Q. Will you describe the circumstances under which you saw him, that is, a physical description of the premises in which you saw him?

A. There is a room in the basement of the Uptown Hotel that is used as, it appeared to be used as a dark room for developing film. There was a door in the wall of the room connecting it with a small room that was used to store tools and cleaning equipment that is normally used in a hotel to clean carpets and floors and stairs.

Mr. Duane: Pardon me. May I have the witness speak up?

The Court: Yes. Did you hear the last answer? Read the last answer, Mr. Reporter.

(The record was read by the reporter.)

Mr. Davis: Continue.

A. As a result of a previous conversation with this informer I went——

Mr. Duane: Just a minute. Object to the testimony with reference to any previous conversation.

Mr. Davis: I am not asking for the conversation,



(Testimony of William H. Grady.)

your Honor. The witness can state that he had a conversation.

Mr. Duane: Well, if he did, but he has not so testified. He said, "As a result of the previous conversation."

The Court: He said, "As a result of a previous conversation," as I understood his answer. [5]

Mr. Duane: Possibly he did; possibly I am wrong.

The Court: Am I correct about that, Mr. Reporter?

(The record was read by the reporter.)

The Witness: A. As a result of this previous conversation with an informer I went to this dark room and tool room at approximately 9:30 p. m. on the evening of August 15, 1945. At that time I took a hammer and a nail and I made approximately ten to twelve holes in the door leading between the tool room and the dark room. This door did not appear to have been used. It had a table up against the door, and I made the holes from the dark room side toward the tool room side, and then I left the dark room and entered the tool room through another door from a hallway, closing the door on the tool room to keep the light out in the tool room with the light on in the dark room.

At approximately 11:00 p. m. I observed the defendant, Stephen Sorrentino, and an informer enter this dark room. They stood directly in front of the door, in front of the table, approximately two and



(Testimony of William H. Grady.)

a half feet from where I was standing on the opposite side of the door. I heard the informer say, "Did you bring the can of mud?" And the defendant said, "No, I didn't bring it; I will later on tonight or tomorrow." The informer then removed a roll of currency from his pocket and asked the defendant if he wanted the money then, and the defendant said, "No, you can pay me at the time I deliver the stuff." Shortly thereafter the defendant and the informer [6] left the room, and I didn't see them any more that evening.

Mr. Davis: Q. Tell me, Mr. Grady, from your experience of four and a half years in the Narcotic Bureau, does the word "mud" have any particular significance to you?

A. Yes, sir; that is an expression that usually refers to opium.

Q. Based on the same experience that you have had, does the word "stuff" have any particular significance to you?

A. It is commonly used to refer to narcotic drugs.

Q. Did you subsequently have another conversation with the informer? A. Yes.

Q. And as a result of that conversation did you or did you not on the afternoon or early evening of August 16, 1945, go to the vicinity of 45th Avenue in San Francisco? A. Yes, sir.

Q. Who, if anyone else, was present with you at that time?

(Testimony of William H. Grady.)

A. At that time I met an informer and a special employee, Mr. Lieberman, at the corner of Fortieth and Irving Streets at approximately 5:45 p. m. on August 16th. At that time I gave the informer \$375 of Government money, and I searched the informer, searched through his pockets and his clothes, to see that he did not—Well, I guess that is not allowed—to see he didn't have any narcotics on his person. The informer and the special employee then proceeded to a house located at 1678 Forty-fifth Avenue. [7]

Q. What, if anything, did you see at that address?

A. At that address I saw the informer and the special employee enter the house.

Q. Tell me, where were you in reference to the location of this particular residence that you testified that you saw them enter? Where were you located?

A. I was, at the time that they entered the house I was in an automobile on Forty-fifth Avenue, heading, facing south at the time that these two people entered this residence.

Q. About how far away from the entrance to the residence were you?

A. I would say approximately 150 to 200 feet. After they had entered the residence I proceeded to pass from the residence in a southern direction to approximately 250 feet from the entrance to the house. At that time I was south of this entrance.

(Testimony of William H. Grady.)

There was some building construction going on, some houses being built on the corner of Forty-fifth and Moraga, that was not on the exact corner, but on Forty-fifth Avenue, there was a row of houses being built facing Forty-Fifth Avenue between Moraga and Noreiga, on the west side. I entered one of these.

Q. Was that on the same side or a different side of the street than the residence?

A. The opposite side from the residence. I entered one of these partially-constructed houses. The lumber work, the lumber on the outside of this house had been finished; there was not any [8] stucco or any windows in the house, but there was a framework of lumber where the lumber was, the outside work was done on the front of the house, where it was enclosed in. I entered the front portion of the house, and using a pair of six-power Navy binoculars I kept the premises under observation.

Approximately 5:10 p. m. I observed the defendant drive up in a blue Pontiac coupe, license number 52-B-221. The defendant was dressed in a brown sports jacket, slacks, grey hat. I saw him enter the patio or the entrance of the house, where he passed out of my view. I continued my observation there, and approximately fifteen minutes later I saw the defendant leave the residence, enter his car, and drive away.

Q. About how far were you from the residence

(Testimony of William H. Grady.)

in this position in the building that you described?

A. 250 feet, approximately 250 feet.

Q. What was the condition of the weather that day?

A. That was a day of high fog, no sun, but ordinary visibility for the weather at San Francisco.

Q. You say it was around five o'clock that you saw him enter, and about 5:15 when you saw him leave?

A. Yes.

Q. You recognized him as the man that you knew as Stephen Sorrentino, from your previous acquaintance with him?

A. Yes.

Q. What, if anything, was the next thing that you did or saw? [9]

A. Approximately five minutes after the defendant left, the special employee and the informer left the residence and entered an automobile and drove south towards me, to Moraga Street, and then turned right, or west on Moraga, where I followed them closely, and at Forty-seventh they again turned right or to the north. I pulled alongside of the automobile and they both got out of the car and entered the Government automobile.

Mr. Duane: Just a minute. If the Court please, we will object to any such testimony on the ground it is incompetent, irrelevant, and immaterial, and hearsay as regards the defendant.

Mr. Davis: There was no conversation, your Honor; it is just——

(Testimony of William H. Grady.)

Mr. Duane: His transaction with a person out of the presence of the defendant.

The Court: I will overrule the objection.

The Witness: The special employee and the informer entered the Government car with me and the informer handed me a can that appeared to contain smoking opium.

Mr. Davis: Q. I will show you Exhibit No. 1 for the purpose of identification, and ask you if this is the can the informer handed you on that occasion.

A. I believe my initials are covered up by the sticker.

Q. Well, you can remove one end of the sticker.

A. Yes, all right. Yes.

Q. What is your answer, then? A. Yes.

Mr. Davis: Will you read the question to him, please?

(The question was read by the reporter)

The Witness: A. Yes.

Mr. Davis: Q. Did you place any mark upon this can at the time that you received it from the informer? A. Yes.

Q. And you have observed that mark on this can that you have identified now?

A. Yes, sir.

Q. What, if anything, did you do with this can after receiving it from the informer?

A. I then delivered this can of opium to the Internal Revenue Chemist, Dr. R. F. Lowe.

(Testimony of William H. Grady.)

Mr. Davis: Will the court bear with me for a moment? I believe that is all.

### Cross-Examination

Mr. Duane: Q. Mr. Grady, you say you have been an agent for the Narcotic Bureau for about four and a half years, is that so?

A. Yes; since the 1st of July, 1942.

Q. You usually work with some other agent, do you not?

A. I won't say that I usually work with other agents. I have worked with other agents, and I have worked alone. [11]

Q. Do you know an agent by the name of Thomas McGuire? A. Yes.

Q. You have worked with him pretty regularly?

A. Two years past, I believe, Counsel, since I worked with him.

Q. What?

A. I believe it has been approximately two years since I have worked with Mr. McGuire.

Q. You say that approximately two years ago you worked together quite a bit, didn't you?

A. For about eight months, Counsel, if my memory serves me correctly.

Q. Mr. Grady, directing your attention to the 15th day of August, 1945, that is the date, isn't it?

A. Yes.

Q. You went to the Uptown Hotel, is that correct? A. Yes.



(Testimony of William H. Grady.)

Q. That is on Fillmore Street, between Folsom and Gover, isn't it?

A. 930 is the address. It is between——

Q. McAllister and Fulton?

A. Fulton and McAllister, yes.

Q. What time of the day did you go there, the first time you went?

A. Well, it was just the one time. That day I went there at approximately 9:30 in the evening.

Q. You went there at approximately 9:30 in the evening? [12]

A. Yes.

Q. You say you went to a room in the basement?

A. Yes, sir.

Q. How did you gain admission to that room?

A. Do you mean——

Q. Well, did you have the permission of anyone to go there?

Mr. Davis: I object to that question, your Honor.

Mr. Duane: It is preliminary.

Mr. Davis: Incompetent, irrelevant, and immaterial. I don't see what bearing it has on this defendant. There is no contention that he owned the hotel.

Mr. Duane: That is material.

The Court: I will allow it.

The Witness: I went to this room with the Government informer.

Mr. Duane: Q. Who is the Government informer?

(Testimony of William H. Grady.)

Mr. Davis: I object to that, your Honor, on the ground that we are not either privileged to or required to disclose the identity of the man.

The Court: Sustained.

Mr. Duane: Q. Tell me, is it your own Jerome Berry, also known as Jimmy Berry?

Mr. Davis: I object to that question on the same ground.

The Court: Sustained. The Government has the right to keep the identity of the witness undisclosed. [13]

Mr. Duane: Q. Do you know a man by the name of Jerome Berry, also known as Jimmy Berry? A. Yes.

Q. You do. Was he residing in that hotel, the Uptown Hotel, on the 15th day of August, 1945?

Mr. Davis: I make the same objection again, your Honor. It is an indirect way of trying to disclose the identity of the informer.

Mr. Duane: Not at all, your Honor. I will say to your Honor that we have a subpoena out for Mr. Berry. Mr. Berry would be a very material witness in this case with reference to many matters. I want this jury to get the whole story.

The Court: Well, I will sustain the objection because you have already asked the question which calls for information that may not be disclosed. The Government is entitled to have it kept secret.

Mr. Duane: Well, I won't ask about the informer. Let me put this question.

Q. Was there a man by the name of Jerome Berry, an employee of that hotel——



(Testimony of William H. Grady.)

Mr. Davis: I will make the same objection, your Honor. Counsel has already asked if Berry was the informer. That question has been objected to and stricken out. As to all the other questions, they are based on the same assumption.

The Court: The Court has to be guided by your questions. [14] It would be a travesty upon justice if the Court allowed the examination to be pursued after you have named the man and asked the witness whether or not he is the informer. I will sustain the objection to any question along that line.

Mr. Duane: Q. Were you taken to this room in the basement, or were you given permission to go to this room in the basement by anyone connected with the management of the hotel?

A. Well, I believe that this party was connected with the management of the hotel, but I can't say of my own knowledge that he was.

Q. But aside from this party, nobody else gave you permission, that is, the manager of the hotel, or the owner of the building, if you know him?

A. No, sir. I did not ask for permission.

Q. So you went there about 9:30 in the evening, and I think you said you took a hammer and a nail?

A. They were there, Counsel. I was in the tool room where these items were.

Q. You found a hammer and a nail there, and you picked them up, is that right?

A. I helped myself.

Q. What sized nail was it?

A. Oh, approximately—I am not a very good

(Testimony of William H. Grady.)

judge, but I brought along a sample, Counsel, so you could see. This is about the closest nail that I could find to size (producing nail from pocket).

Q. To the size of the one you used?

A. Yes.

Mr. Duane: If the Court please, we will offer this for the purpose of illustration.

The Court: Very well.

(The nail was marked Defendant's Exhibit A for illustration.)

Mr. Duane: Q. You don't know what penny-weight that nail is, do you? A. No.

Q. I don't, either. What kind of a hammer did you use? A. I used an ordinary clawhammer.

Q. A good-sized hammer?

A. Yes; just an ordinary hammer. I thought there was just one size hammer.

Q. As I understand your testimony, you drove that nail through the door? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Right through the panel of the door?

A. Through the panel of the door.

Q. How many holes did you make?

A. Approximately a dozen.

Q. You didn't ask the permission of the manager of the hotel [16] to do that, did you?

A. No.

Q. You made approximately a dozen?

A. Yes.

Q. Can you give us some idea of the location, the location of the holes on that panel?

(Testimony of William H. Grady.)

A. There wasn't any regular pattern; some were high and some were low, well, not any higher than the eye level.

Q. In a row, or up and down?

A. No, no pattern; at random. I just made them at random.

Q. Just at random? A. Yes.

Q. That was about 9:30 p.m.?

A. About 9:30 p.m. that I entered the hotel.

Q. Well, about what time did you make the holes in the door?

A. Approximately 10:00 o'clock.

Q. Approximately 10:00 o'clock? A. Yes.

Q. So you had been in the hotel for about half an hour? A. Yes.

Q. Had you been in the rooms upstairs?

A. No.

Q. At that time this man whom you refer to as a special employee of the Government was living up there, wasn't he?

A. Yes; I believe Mr. Lieberman was living in the hotel. [17]

Q. You believe Mr. Lieberman was living in the hotel. He is also known as Jack Mandel?

A. Yes, I believe he did use that name.

Q. Was he with you that night down in this room? A. I think he dropped in.

Q. You think he dropped in down in the tool room? A. Yes.

Q. Just casually?

A. No; he knew I was there, I believe.

(Testimony of William H. Grady.)

Q. It only took you a few minutes to punch these holes in the door, didn't it?

A. Yes; not too long.

Q. Then what did you do after that?

A. I turned out the light of the tool room; I went around in the tool room and I sat in a chair and waited.

Q. I see. Where was Lieberman and the informer at that time?

A. Lieberman stepped down during — along about that time I was in the tool room for just a moment or two, and then he left, and I didn't see Lieberman or the informer.

Q. Did you stay there until 11:00 o'clock? Did you stay in that room? A. Yes.

Q. Then tell us what happened at about eleven o'clock.

A. At about eleven o'clock the informer and the defendant Sorrentino walked into the room. [18]

Q. The informer and Sorrentino walked into the room? A. Yes.

Q. Together? A. Yes.

Q. And as they walked toward the room, or into the room, was there any conversation going on between them? A. No.

Q. Did you hear them talking?

A. No. I could hear a scuffling of feet but—I could hear the noise of them walking down the stairs but I couldn't hear any conversation.

Q. So you have them going into this room adjoining the room you were in. A. Yes.

(Testimony of William H. Grady.)

Q. What was the first thing that you heard?

A. The first thing—well, I heard the noise of them walking down the stairs, and the door was not locked, that is, the entrance to the dark room. I heard the door being pushed open and the informer and the defendant walked into my line of vision.

Q. You could see them?                   A. Oh, yes.

Q. Through these holes?               A. Yes.

Q. Go ahead.

A. At that time I heard the informer say, “Did you bring the [19] can of mud?”

Q. Yes.

A. And I heard the defendant say, “No, I didn’t bring it, but I will get it later on tonight or tomorrow.”

Q. Then what happened?

A. The informer then said, asked the defendant if he wanted the money.

Q. Yes.

A. The defendant said, “No, I will take the money when I deliver the stuff.”

Q. Then what?

A. Then they had a conversation in regard to a girl, I didn’t understand the name of the girl, it was a name that I didn’t pick up, as they were talking. Then they turned around and left my vision.

Q. Well, about how long were they in the room?

A. Oh, I would say approximately ten minutes.

Q. About ten minutes?               A. Yes.

(Testimony of William H. Grady.)

Q. How long did you stay in the room after that ten minutes?

A. I was in the room until about midnight, Counsel.

Q. You were in the room until about midnight?

A. Yes.

Q. Then where did you go?

A. I went home.

Q. You went home? A. Yes. [20]

Q. So you stayed in the room from eleven until approximately twelve?

A. Well, I came in——

Q. Well, from ten, I believe it was.

A. Yes, and probably more than that.

Q. Anyway, from the time they left the room, which was probably about quarter past eleven, you remained—— A. Yes.

Q. Until midnight? A. Yes.

Q. At which time you went home?

A. Yes, sir.

Q. Where do you live?

A. At that time, Counsel, I lived at 1080 Bush. Now I live out at the beach.

Q. At the time you were living at 1080 Bush?

A. Yes.

Q. I take it when you concluded then you were through for the night and didn't go back on the job until the following day, the 16th?

A. No. I was back there again, Counsel. I went home at twelve o'clock or approximately at that time, and along about one o'clock I had to go

(Testimony of William H. Grady.)

to work again. Along about 12:30 or 1:00 o'clock I got a phone call and I had to go out and work again, and I didn't get through that work that I was doing until approximately 2:30 or 3:00 o'clock, and at which time I again [21] went back to the hotel and entered the tool room.

Q. To the Uptown Hotel? A. Yes.

Q. You went back there about 2:30 in the morning?

A. 2:30 or 3:00 o'clock, yes, Counsel.

Q. Did you go down to this tool room again?

A. Yes.

Q. Did you see anybody down there?

A. I saw, I believe I saw the informer once in the—after I came back, once or twice.

Q. You went home at 12:00 o'clock midnight?

A. Yes.

Q. You went to your home at 1080 Bush street?

A. Yes, that is correct.

Q. That is between Leavenworth and Hyde streets?

A. No; the other way, counsel. Leavenworth and the next one down.

Q. Jones?

A. Very close to the corner of Leavenworth.

Q. Leavenworth and Jones? A. Yes.

Q. How long did you remain at home?

A. Approximately one o'clock, I think, counsel. At the time I left home it was approximately one o'clock.

Q. Will you tell us where you went then?



(Testimony of William H. Grady.)

A. Yes, sir. I went down to 737 Bush Street, where a man by [22] the name of Adelman lived.

Q. Then you say you returned to the Uptown Hotel at 2:30 in the morning?

A. 2:30 or 3:00 o'clock, yes, Counsel.

Q. How long did you remain there then?

A. Until approximately 7:30; 7:30 in the morning.

Q. Then you went home?

A. At that time I went to the office. I went to our district office, which at that time was at 68 Post Street.

Q. And then you say the next day, or, rather, that day, then, the 16th——

A. Yes, that was the 16th, Counsel.

Q. You went to a house in the 1600 block of Forty-Fifth Avenue? A. Yes.

Q. Did you go there alone, were you accompanied by anyone?

A. I did not go to the house. I didn't enter the house.

Q. Well, you went to the vicinity of the house?

A. Yes. Do you mean in my automobile? What would you want to know?

Q. Well, you went in your automobile?

A. I was in the Government automobile alone.

Q. Alone? A. Yes.

Q. Were you driving anybody else's car?

A. Yes.

Q. And Lieberman was in that car? [23]

A. Yes.



(Testimony of William H. Grady.)

Q. And was Berry also——

Mr. Davis: I object to that, also.

Mr. Duane: Q. Well, was there anyone else?

A. Yes, sir.

Q. There? A. Yes, sir.

Q. Of course, you are familiar with that house on Forty-fifth Avenue, aren't you?

A. Well, Counsel, I don't believe you would call it familiar. I haven't been to that house——

Q. You have never been in the house?

A. Over twice; I think I have been in the house once or twice.

Q. What? A. Once or twice.

Q. Of course, you know who occupied the house?

A. Yes.

Q. You knew who occupied the house at that time? A. Yes.

Q. And that was this informer that you speak of?

Mr. Davis: I object to that, your Honor. It is another means of identifying the informer.

Mr. Duane: I am not identifying the informer. It is a question I think I am entitled to an answer on.

The Court: I will sustain the objection. It is an indirect way of disclosing information which the law provides should be [24] kept secret.

Mr. Duane: Q. Didn't you know at that time that there were cans of opium in that house?

A. No.

Q. You did not? A. No.

Q. Didn't you know that there were cans of

(Testimony of William H. Grady.)

opium in the room in the Uptown Hotel, not only the room occupied by the informer, but the one occupied by Lieberman?      A. No.

Q. You didn't know that?      A. No.

Q. You didn't know they smoked up in that room?

A. I had heard that they smoked there, Counsel.

Q. You heard that?      A. Yes.

Q. And you heard it while you were engaged as a narcotics officer isn't that so?      A. Yes.

Q. Did you make any investigation to ascertain whether or not there was any truth in what you heard?      A. No.

Q. You did not?      A. No, sir.

Mr. Duane: I think that is all. [25]

The Court: You, gentlemen, wish to adjourn earlier today?

Mr. Davis: Yes, your Honor.

The Court: Is it a convenient time?

Mr. Davis: I believe it is, your Honor, before we get started with another witness.

The Court: We will take a recess, ladies and gentlemen, in this case, because I believe that counsel have an engagement in another court, and we will reconvene at two o'clock. The jurors will please return at two o'clock, and bear in mind it is your duty not to discuss the case among yourselves or with any other person, or form or express any opinion concerning the case until it is finally sub-

mitted to you for decision. We will recess until two o'clock.

(A recess was taken until two o'clock p.m.)

Afternoon Session, January 14, 1947, 2:00 p.m.

The Court: The jurors are all present.

Mr. Duane: If the Court please, I would like to recall Mr. Grady for further cross examination.

The Court: Very well.

WILLIAM H. GRADY,

recalled; previously sworn.

Cross Examination (Resumed)

Mr. Duane: Q. Mr. Grady, calling your attention to the dark room that you have referred to, and the tool room in this Uptown Hotel, about how far are those rooms from the staircase that you have to use?

A. You mean from the base of the stairs, from that point, would you say?

Q. Yes.

A. I would judge approximately—the entrance to the tool room, of course, is closer—I would say about 15 feet from the base of the stairway.

Q. Then there is a door to the tool room and a door to the dark room? A. Yes.

Q. The door to the dark room is further from the stairs? A. Yes.

Q. Than the door to the tool rom.

A. Yes. [27]

Q. You spent your time in the tool room?

(Testimony of William H. Grady.)

A. Yes.

Q. You would say that that is about 15 feet from the staircase. By the way, did you come down the stairs to that room? A. Yes.

Q. Where do the stairs come out on the upper floor?

A. From the rear, you go down a rear hall, as I recall it, Counsel; you walk down—you come into the lobby of the hotel and then you step up a few steps, then you walk down the hall, and at the end of the hallway there is a staircase.

Q. Is that behind the elevator? A. Yes.

Q. I take it there is an elevator there?

A. Yes, there is an elevator. It is just after you come out of the lobby.

Q. How long have you known Sorrentino?

A. I would say since 1943.

Q. How many times have you been in his house?

A. Once.

Q. Just once? A. Yes.

Q. When you went to his house you went with other agents, did you not?

A. Yes, with Agent Hayes, and Agent Burton, and Agent Collett, and United States Marshal Jim Egan, and I believe there were [28] two State agents there at that time.

Q. On that occasion did you make a search of his house? A. Yes.

Q. Did you find any contraband of any kind, narcotics, or anything? A. No, no narcotics.

(Testimony of William H. Grady.)

Q. Was that the only occasion that you were there?      A. Yes.

Q. Do you know that other agents have been there on other occasions?

A. I have heard stories and hearsay evidence to that effect, but I have no direct knowledge of such things.

Q. Did you participate in a surveillance of the house of the defendant from other premises with spy glasses?      A. No, sir.

Q. You did not?      A. No.

Q. You know that was done, don't you?

A. No.

Q. You do not know?      A. No.

Q. You don't know that Agent McGuire did that?      A. No, not of my own knowledge.

Q. Not of your own knowledge?      A. No.

Q. You have heard it? [29]

A. As far as Agent McGuire watching the place with spy glasses, I don't believe I have heard that. I have heard lots of things but I have never heard that, Counsel.

Q. These incidents that you heard of have gone on over the months, haven't they?

A. I don't quite follow you. You mean that I have heard rumors that McGuire was watching Sorrentino over a period of a month?

Q. Not only that McGuire or any other agents were watching his premises, but that his home has been searched, that he has been followed out of San

(Testimony of William H. Grady.)

Francisco and around San Francisco; you know that?      A. No.

Mr. Davis: I have not objected to this, but I think it is objectionable as incompetent, irrelevant, and immaterial, and having no bearing on the issues in this case. I have not objected to it preliminarily, but I think we are going far afield, and if it is not connected up with this case——

Mr. Duane: I am going to connect it up in my defense. However, I will bow to your Honor's ruling.

The Court: Well, I think the objection of the district attorney is good, Mr. Duane. It is not within the reasonable limits of the indictment.

Mr. Duane: I will ask one more question.

Q. Mr. Grady, were you present in the house of the defendant [30] when he was struck in the face by McGuire?      A. No.

Q. You were not?      A. No.

Q. You heard that, though, didn't you?

Mr. Davis: I object to what he heard.

The Court: Sustain the objection.

Mr. Duane: That is all.

Mr. Davis: That is all.

Mr. Davis: I will call Mr. Jack Lieberman.

JACOB LIEBERMAN,

called as a witness on behalf of the Government;  
sworn.

The Clerk: Will you please state your name to  
the Court and the Jury?

A. Jacob Lieberman.

Direct Examination

Mr. Davis: Q. Mr. Lieberman, you say your  
name is Jacob Lieberman? A. That's right.

Q. Are you known by any other name, or were  
you ever known by any other name?

A. Well, in various different cities, I was known  
by different names in different cities. [31]

Q. Well, I will come back to that later. What is  
your occupation?

A. I work for the Bureau of Narcotics as a  
special employee.

Q. How long have you been engaged in that  
occupation? A. Close to seven years.

Q. How are you paid? A. By the day.

Mr. Duane: I object to that as incompetent,  
irrelevant, and immaterial.

The Court: What is the materiality?

Mr. Davis: My only purpose, your Honor—it  
probably is immaterial—I merely wanted to estab-  
lish what his relationship was with the Bureau of  
Narcotics.

The Court: Well, he is an employee, and he is  
paid by the bureau.

Mr. Davis: Yes, that is true.



(Testimony of Jacob Lieberman.)

The Court: That is true, is it?

The Witness: That is correct.

The Court: I think that would cover it.

Mr. Davis: Yes, your Honor.

Q. In light of your testimony that you are a special employee of the Bureau of Narcotics, I will ask you to explain your answer to my question: Were you ever known by any other name? Explain the answer which you gave to that question.

A. Yes. I am known by other names. When I work for the bureau [32] in various different cities I never use my right name.

Q. Do you know the defendant in this case, Stephen Sorrentino? A. Yes.

Q. When did you first have occasion to meet Sorrentino?

A. Well, around the first week in August I was introduced to him by the informer.

Q. August, 1945? A. 1945.

Q. Directing your particular attention to the 15th day of August of 1945, did you have occasion to meet the defendant on that day? A. Yes.

Q. Where did you meet him?

A. I met him at the Uptown Hotel, in the lobby.

Q. About what time of the day or night was that? A. That was 11:00 p.m.

Q. Who, if anyone else, was present with you at the time you met him? A. The informer.

Q. Do I understand your testimony to be that—withdraw that. You had met Sorrentino previously to that time? This is not the first occasion; is that right?



(Testimony of Jacob Lieberman.)

A. That's right. I met him quite a number of times before.

Q. You met him in the lobby about 11:00 o'clock, the informer and you met Sorrentino?

A. Yes.

Q. What took place immediately thereafter?

A. Excuse me just a moment. I met Sorrentino in the lobby of the hotel coming in by himself, and I was by myself, and the informer was up in the room at the hotel.

Q. Do you recall the number of the room?

A. 302.

Q. What, if anything, did you and the defendant do after you had met in the lobby?

A. He asked me where is the informer, you know, by his name, and I told him, "I will call him, he is upstairs in his room." I went to the phone. I called him down. I told him, "Steve is downstairs." And he told me to hold onto him until he comes down. The informer come down in a few minutes and they both went to the rear of the basement—to the rear of the lobby, and then went down the basement.

Q. Can you describe the situation there in relation to the lobby and the basement, or the stairway to the basement? What, actually, did you see, physically?

A. The informer came down by the elevator and motioned to Steve Sorrentino with his hand as though to come here. I sat there, I didn't go along at all, but they both went to the rear of the lobby.

(Testimony of Jacob Lieberman.)

They walked up a couple of steps and they went farther down to where the stairs was leading to the cellar.

Q. Had you any occasion, either before that time or after, to examine that particular stairway?

A. Yes, I went down a few times, down to the basement. [34]

Q. You know of your own knowledge that the stairway that you saw them go down leads to the basement? A. Yes.

Q. Did you see the defendant and the informer again that same evening, or morning, whenever it was?

A. I met them again about 1:30 or 2:00 o'clock in the morning in my room, 302—303.

Q. Who was with you at the time that you met the defendant and the informer in your room at that time, if there was anybody else?

A. There was no body else.

Q. Did you have any conversation with the defendant or did the informer have any conversation with him in your presence at that time?

A. I had a conversation with Steve Sorrentino later—several times before, about narcotics, and about the quality of opium. That particular day—that particular night when he was in my room with the informer, the informer asked him about narcotics, about opium, again, and Steve Sorrentino told him that he has the best quality of opium around, and the informer asked him if he wants to sell him some, a can of opium. Steve told him that

(Testimony of Jacob Lieberman.)

he will sell—the following day he will bring a can of opium, or, rather, he can bring it in that particular day, he may bring the can of opium with him, but he will make several calls and then if he can't get the party in, this particular [35] party is going to bring the can of opium to the hotel. Steve went down a few times and telephoned and tried to get this party, and each occasion he came back to the room and said that he can't get the party in.

Q. Did you have any conversation with Sorrentino while you and the informer and he were in the room? A. Yes, I did.

Q. To the best of your recollection, what was that conversation?

A. Steve asked me how many jars do I get out of a 5-tael tin. I told him I get 8. He said—I asked about himself—he gets 10 out of it. I told him then, “How do you do it?” He told me, “You take the can and steam it, you pick up two extra jars by that.” I told him I didn't know that way.

Q. In your conversation with Sorrentino previous to this time were you known to him by the name of Jacob Lieberman?

A. No; by Jack Mandel.

Q. By Jack Mandel. In your conversation with Sorrentino, did you tell him what your business was, or what type of business you were in?

A. No. The only thing he knew was narcotics. That is all I told him about.

Q. You say you told him about narcotics?

A. Yes.

(Testimony of Jacob Lieberman.)

Q. What was it you told him?

A. That I generally buy narcotics.

Q. Pardon? [36]

A. I buy narcotics and I sell narcotics.

Q. That is what you told Sorrentino?

A. Yes.

Q. Coming back to the conversation in the room, did you or the informer in your presence have any further conversation with the defendant concerning the can of opium, after he had made these phone calls?

A. Yes. The last conversation I had with him on that particular day was he told me he will bring the can of opium the following day, and the informer told him not to bring it the following day, but to bring it over to 1678 Forty-fifth Avenue. Steve told him, "At what time?" He told him five o'clock. He said, "I'll be there promptly at five o'clock."

Q. Going back to this conversation, or this entire transaction in the room on the 15th, what time was it you said that you first met Sorrentino on the 15th?

A. It was about eleven o'clock, eleven p.m.

Q. That is at night?

A. At night time.

Q. How long was Sorrentino with you during that night and the next morning, if he was? In other words, how long did the telephone calls and conversation take?

A. Until about seven a.m. the following morning.

Q. That was the time that Sorrentino told the

(Testimony of Jacob Lieberman.)

informer that he would deliver the can of opium to this house on Forty-fifth [37] Avenue?

A. Yes.

Q. Did Sorrentino leave at that time?

A. He left about seven a. m.

Q. In the morning?           A. Yes.

Q. When did you next see Sorrentino, the defendant?

A. The next time I saw him was 1678 Forty-fifth Avenue about five o'clock, when I heard a noise——

Q. Was that the next day?

A. Yes, that was the 16th. Somebody knocked at the door and hollered, "Milk man." The informer and I went to the door and we opened up the door and Steve Sorrentino came in with two bottles of milk in his hand. He gave them to the informer, and the informer took them off the steps, and at the same time pulled out a package from his hand and says, "Here is the can of opium," to the informer. The informer gave me the can of opium, and the informer gave him the money. Steve counted the money right in my presence, and I asked him, "Is all the money there?" A couple of seconds passed by. He said, "Everything is there." Then he told the informer to open up the can and take a look at it. The informer opened up the can, and we looked at it, and we saw it was black stuff; it was right to the top. We closed up the can and stood there a few moments, and before he left he said, "I am expecting some heroin [38] in. As

(Testimony of Jacob Lieberman.)

soon as I get it I am going to give you fellows the first crack at it." I thanked him very much. I told him to not forget about it, and as he left I said, "So long, Steve." Steve said, "So long, Jack, I'll meet you back at the hotel." We stayed there a few more minutes, and then we left, the informer and I left in our car and we went as far as on Fortieth Street, Forty-seventh and Moraga, Forty-seventh Avenue and Moraga Street, when we met Agent Bill Grady. We got out of our car and went into Agent Grady's car, and the informer give Agent Grady the can of opium, and then I put my initials on that particular can.

Q. I will show you Government's Exhibit No. 1 for Identification, and ask you to examine it and tell me, tell the jury, if that is the can which the informer received from Sorrentino in this house on Forty-fifth Avenue.

A. That is the can. There is my initials that I put on it.

Q. You see your initials on it? A. Yes.

Mr. Davis: At this time I ask Government's Exhibit No. 1 previously for identification be received in evidence.

Mr. Duane: Objected to as incompetent, irrelevant, and immaterial; the proper foundation is not laid.

The Court: Objection overruled. It may be admitted.

(U. S. Exhibit 1 for Identification was thereupon admitted in evidence.) [39]



(Testimony of Jacob Lieberman.)

Mr. Davis: Q. Tell me, Mr. Lieberman, before you went to the house on Forty-fifth Avenue with the informer on that day, had you met Agent Grady prior to the time that you went into the house?

A. Yes. I met Agent Grady at Fortieth Avenue and Irving Street, and he came out of his car and we walked out of our car also. I saw him search the informer, and at the same time he searched me. Then he gave the informer a bundle of money. He told him, "Here is the money," and the informer took the money and put it in his pocket. That was about 4:45, around that time.

Mr. Davis: Will the court bear with me a moment?

The Court: Yes.

Mr. Davis: Q. Have you ever been convicted of a felony? A. Yes, sir.

Q. When was that? A. 1931.

Q. And what was it for?

A. Narcotics.

Q. Where was it?

A. Atlanta Penitentiary.

Q. I mean, what city were you convicted in?

A. Brooklyn, New York.

Mr. Davis: That is all.

### Cross-Examination

Mr. Duane: Q. You say you are employed by the Government? [40] A. Yes.

Q. You are? A. Yes.

Q. By what department of the Government?

(Testimony of Jacob Lieberman.)

A. Bureau of Narcotics.

Q. How long have you been so employed?

A. Since 1940, I think.

Q. Since 1940, you think? A. Yes.

Q. Are you a civil service employee?

A. No.

Q. Are you a paid regular monthly salary?

A. No. I am paid by the day.

Q. Paid by the day?

A. That's right.

Q. Do you work every day?

A. Not every day. The only time I get paid, the only money I get is by the days I work. If I don't work I don't get paid.

Q. You just work from time to time?

A. Yes.

Q. Is that so? A. Yes.

Q. Aside from the name "Jack Mandel," what names are you known by? A. Jack Davis.

Q. Jack Davis? [41]

A. Yes; various different times. Jack Cohen. I always use that "Jack" name all the time.

Q. What other surnames do you use?

A. I can't recall.

Q. How about the name Harwood?

A. Never did.

Q. Never used that name? A. No.

Q. Do you remember testifying in the case of United States v. Albert Adelman? A. Yes.

Q. In this courtroom? A. Yes.

Q. On the 11th of June, 1946?



(Testimony of Jacob Lieberman.)

A. I don't remember that particular day, but I know I testified in court.

Q. You remember that you did testify in that case?      A. Yes.

Mr. Duane: Mr. Davis, will you stipulate that this is a true and correct copy of the transcript of this witness in the Adelman case?

Mr. Davis: Yes, I will so stipulate.

Mr. Duane: Q. I will show you here a transcript of your testimony taken in the case of United States vs. Albert Adelman, before the Honorable Louis E. Goodman, in this court, case No. [42] 30,076-G, and I will direct your particular attention to a portion of your testimony that appears on page 7, lines 9 and 10, which is underlined in red pencil. I will ask you to read that.

Mr. Davis: May I ask that before the witness answers it that I have an opportunity to read it, myself?

The Witness: I don't think I mentioned that particular——

Mr. Duane: Just a minute.

The Court: No. You are to read it.

Mr. Duane: Have you read it?

A. Yes.

The Court: Just read it and then don't do anything else.

Mr. Duane: Just read it, yourself.

Mr. Davis: What is it, 9 and 10?

Mr. Duane: I have underlined it.

(Testimony of Jacob Lieberman.)

“Any other names?”

“A. Well, Jack Harwood sometimes; in different cities I have different names.”

Q. Where do you live, Mr. Lieberman?

A. New York City.

Q. Where in New York City?

A. 361 South Third Street.

Q. 361 South Third Street? A. Yes.

Q. What is that near? [43]

A. Brooklyn; that is in Brooklyn.

Q. It is in Brooklyn? A. Yes.

Q. Then you don't live in New York City?

A. Well, that is considered New York City.

Q. It is across the river, isn't it?

A. Yes, right across the bridge, a small bridge; takes only five minutes to get across.

Q. Now, you say you were convicted of a felony in Brooklyn. A. Yes.

Q. How long had you lived in San Francisco on August 15, 1945? A. Previous to that?

Q. What? A. Previous to that?

Q. Yes, previous to that date.

A. I arrived in San Francisco about the third week of July of 1945.

Q. When did you first meet Sorrentino?

A. Around the latter part of the first week of August; around the 8th.

Q. About the 8th of August?

A. 8th of August, 1945.

Q. You had never known him before?

A. No.

(Testimony of Jacob Lieberman.)

Q. Did you see him frequently thereafter?

A. Yes. [44]

Q. When you first met him on or about the 8th of August, did you have any discussion with him about narcotics?      A. No.

Q. You did not?      A. No.

Q. When did you first discuss narcotics with him?

A. Around the—probably about three days later.

Q. Along about the 11th?

A. Around the 11th or 12th.

Q. Between the 8th and the 11th and 12th had you seen him?      A. Yes.

Q. Many times?

A. Oh, probably two or three hours at a time at the Uptown Hotel.

Q. You didn't discuss narcotics on those occasions?

A. No, I was not free with him talking about it; I didn't know him so well to talk to him then. I was waiting for him to come out with it first.

Q. You were waiting for him to come out with it?

A. Yes. I really didn't have the right occasion to speak.

Q. You were at that time occupying room 303 in the Uptown Hotel?      A. That is correct.

Q. Room 302 was occupied by Jimmy Berry?

A. Yes, sir.

Q. There was a door between the two rooms that was open; isn't that so?

(Testimony of Jacob Lieberman.)

A. Yes, that was open all the time. [45]

Q. So you both had access to each other's rooms?

A. Yes.

Q. Let me ask you, did you have in your room any narcotics, opium or otherwise?

A. No.

Q. You did not. Did Berry have any in his room?

A. I didn't see any if he did have.

Q. You never saw any? A. No.

Q. Will you say that no one smoked opium in your room? A. Oh, yes.

Q. They did? A. Oh, yes.

Q. You also sold opium in that room, didn't you? A. No, sir.

Q. You did not? A. No, sir.

Q. During this time you were friendly with Mr. Grady, weren't you? A. Yes.

Q. So that having met Sorrentino on the 8th of August and you saw him on the 11th and 12th of August, but up to that time you had no opportunity, or the occasion did not present itself where you could discuss narcotics with him; that is correct? A. Correct. [46]

Q. When did you first discuss narcotics with him?

A. Oh, around, I should say, the 12th; I should say the 12th, that particular night.

Q. That particular night. Where?

A. That was in room 302.

Q. Room 302? A. Yes.

(Testimony of Jacob Lieberman.)

Q. That was Berry's room? A. Yes.

Q. About what time of the day or night?

A. That was about, I should say, about ten p.m.

Q. On the night of the 12th? A. Yes.

Q. Give us the conversation.

A. Well, I went up to Jim Berry's room, and I found Stephen Sorrentino and Jimmy Berry were lying on the bed. Stephen Sorrentino was smoking opium. That is the first time I saw opium being smoked, and while the talk was going on——

Q. What were they talking about?

A. Talking about opium, the quality of opium, how much opium was in the country, the price of various—well, opium and drugs and all that stuff, and that is the first time I got in conversation with Stephen Sorrentino about opium.

Q. You were present during all of this conversation? A. Yes.

Q. You heard it between them? [47]

A. Yes. I spoke with him, myself, too.

Q. You joined in the conversation?

A. Yes.

Q. This was on the 12th?

A. 12th, about ten p.m.

Q. Go ahead, tell us your recollection about it. What else?

A. This was going on until about six or seven o'clock in the morning, this smoking.

Q. And talking about narcotics?

A. Yes, and everything in general.

Q. Well, can you tell us anything else?

A. Well, yes. He spoke about work, about the

(Testimony of Jacob Lieberman.)

war, the Japanese attack, the labor situation, unemployment, various things, whatever came into our minds we spoke about. We spoke about women, also.

Q. All of this time they were smoking opium?

A. Yes.

Q. He answered when you spoke about opium or about narcotics?      A. Yes.

Q. In particular?      A. Yes.

Q. Well, can you recall anything in particular on that subject?      A. Yes.

Q. Tell us.

A. I asked Steve Sorrentino about the opium that he was smoking. [48] Steve told me, "This is good stuff."

Q. You say you asked him. Tell us what was said.

A. Well, I can't say exactly the words, but I am giving it to you to the best of my knowledge. We spoke about narcotics there. I asked Steve how was the stuff. He said, "Any time I smoke I always smoke the best of stuff." I told him, "I don't blame you; if you bring your own you are going to bring the best."

Q. Go ahead.

A. Well, that is about the general idea how we spoke about it.

Q. Well, you don't recall any other conversation?

A. Well, I just can't recall—all I was interested in was narcotics, and that was all.

(Testimony of Jacob Lieberman.)

Q. You use narcotics, don't you? A. No.

Q. You don't? A. No, sir.

Q. Would you say that you did not smoke opium up in your room there in the Uptown Hotel?

A. No, I did not smoke opium there. I was just fooling around with the stick, the opium pipe, they call that a stick. I laid down on the bed and made believe I was going to smoke, because Steve asked me if I smoked, and I told him, once in a while I do; I don't feel well at the present time to smoke." But to show I know something about it, I just took the opium pipe and stuck it to my mouth to make believe I know how to smoke. [49]

Q. You do know something about it?

A. Well, after seeing Steve Sorrentino smoke quite a number of times I know a little bit about it.

Q. You never knew anything about it before then? A. No.

Q. Never did? A. No.

Q. You used opium in 1931, didn't you?

A. I never did.

Q. You never did? A. Never did.

Q. Did you never just sell it? A. Yes.

Q. When did you see him after August 12th?

A. After August 12th?

A. I met him on the 14th, the 15th of—I met him on the 13th and the 14th, practically every day in the week I met him. He always used to come to the hotel, every night.

Q. Every night?

A. Practically every night, now and then.



(Testimony of Jacob Lieberman.)

Q. You were devoting most of your time to being right there in the room?

A. No. I was always around the lobby, standing outside; once in a while going down town to eat, coming uptown again. [50]

Q. You want this jury to understand you were employed by the Government at that time?

A. Yes.

Q. What salary were you getting?

A. \$10 a day.

Q. \$10 a day?           A. Yes.

Q. Do you get paid daily?

A. Well, every week or so, whenever, like seven days, or eight days, or nine days, I get my money, and I pay my room rent. From that \$10 I pay my room rent, and I paid my board and everything.

Q. You were paid about every seven or eight or nine days?

A. About every other week, ten days or twelve days.

Q. Mr. Lieberman, on the 13th or the 14th, did you have any conversation with the defendant about narcotics?           A. Yes.

Q. Can you relate any of that? Can you relate any of the conversation and when you had it?

A. Yes, I can relate some of the conversation I had with him.

Q. Tell us when.

A. Around the 14th.

Q. The 14th?



(Testimony of Jacob Lieberman.)

A. Around the 14th, on that evening, probably around ten o'clock or eleven o'clock at night. [51]

Q. Where was that?

A. That was in my room at that time.

Q. What was the conversation?

A. Well, about smoking opium.

Q. Well, what was it?

A. Well, he asked me about—I asked him, rather, how many jars of opium does he get out of a 5-tael can. He told me 10. I told him, “How come, we only get 8,” the informer and I only get 8. He told me, “Well, that is bad stuff.” He said, “I have good stuff.” He said, “My stuff pours 10. That is about the gist of the conversation we had.

Q. That was about all on the 14th?

A. Yes.

Q. Did you see him on the 15th?

A. Yes.

Q. Where?

A. The Uptown Hotel.

Q. Where in the Uptown Hotel?

A. Oh, he come into the lobby there.

Q. Coming into the lobby? A. Yes.

Q. Did you have any conversation with him there?

A. Yes, around eleven o'clock at night he came in.

Q. Well, what was the conversation?

A. Well, when he came in around eleven o'clock at night he asked me if Berry was there. I told

(Testimony of Jacob Lieberman.)

him, "Berry is not here right [52] now, but he is up in his room. Do you want me to call him? I will call him." I went to the phone and I called him.

Q. Were you there when Berry came down to the lobby?      A. Yes.

Q. What did you do? Did you leave them there?

A. They just went downstairs and that is about all. I left them there.

Q. You didn't go with them?

A. No, I didn't go with them.

Q. Where did you go then?

A. I think I must have stood in the hallway, in the lobby for about fifteen minutes, and then I went to my room again.

Q. Did you leave the room again that night?

A. No. I sat there practically all—up until early in the morning. I went down in the lobby a few times and I came up again.

Q. Did you see Sorrentino again that night?

A. Yes.

Q. You did?      A. Yes, sir.

Q. What time did you see him?

A. Five o'clock in the evening. You are referring to the 16th; that was the following day.

Q. Between the time he left you in the lobby on the night of the 15th about eleven o'clock, the next time you saw him was [53] about five o'clock in the afternoon?

A. No. I saw him one o'clock in the morning

(Testimony of Jacob Lieberman.)

in my room when they were, the informer and Stephen Sorrentino came into my room one o'clock in the morning. I sat around until about seven o'clock in the morning. In between they went downstairs, he went downstairs, Steve Sorrentino went downstairs a few times, I mean not a few times, but he made several phone calls, and then he went upstairs again to my room again.

Q. The next day, along about five o'clock, or a little before five, did you meet Mr. Grady?

A. At quarter to five.

Q. In the afternoon? A. Yes.

Q. Where did you meet him?

A. I met him at Fortieth Avenue and Irving Street.

Q. Was anyone with you at that time?

A. Yes.

Q. Who?

A. The informer was with me.

Q. Were you in an automobile?

A. Yes. I was in the informer's automobile.

Q. That was at Fortieth and Irving, did you say? A. Yes.

Q. Did you get out of the machine?

A. Well, I opened the door—yes, I got out a little bit. [54]

Q. Did Berry get out? A. Yes.

Q. Did Grady get out of his car?

A. Yes, he got out of his car and he walked over to our car.

Q. Then what happened there?

(Testimony of Jacob Lieberman.)

A. I know he frisked the two of us, he searched the two of us, just fanned us around, then he gave him the money.

Q. When he gave him the money what did you do?

A. He gave the informer the money. The informer took the money, put it in his pocket.

Q. Did he say anything about the money?

A. No.

Q. Then what happened after that?

A. Well, we then went to 1678 Forty-fifth Avenue.

Q. Did anyone else let you in there?

A. The informer had a key.

Q. The informer had a key?

A. He opened up the door. We walked in.

Q. It was his home, wasn't it?

Mr. Davis: I will object to that.

The Witness: I don't know whose home it was.

The Court: Read the question, please.

(The question was read by the reporter.)

Mr. Davis: I objected to the question.

The Court: Sustain the objection on the ground the Government [55] is entitled to keep secret the information concerning the informer. The court has a duty not to allow such information to be disclosed. I think you should not pursue that, Mr. Duane, even indirectly, because it is improper.

Mr. Duane: I just want to say to your Honor this: It curtails the cross-examination to this ex-

(Testimony of Jacob Lieberman.)

tent, it is my purpose to show that at the time that that house was entered there was in that house cans of opium similar to this.

The Court: Well, you are not prevented from introducing any evidence that you wish to, but I don't see that the questions that you are asking have to do with that subject.

Mr. Duane: Only to this extent, if the Court please, I want to establish that it was the property of this so-called informer contained in his house.

The Court: You have already asked the witness whether there was any opium in there.

Mr. Duane: No. I referred to the room in the hotel, if the Court please.

Mr. Davis: Well, your Honor, my objection is, of course, as your Honor knows, based upon the rule of law that we don't have to disclose the identity of the informer, and as far as Mr. Duane's purpose, if he can prove it he is perfectly entitled to prove, it but he can't try to prove it by indirection and by innuendo and by cross-examination of my witness.

Mr. Duane: I don't want to prove it by innuendo. I [56] want to get the facts; that is all.

The Court: I will sustain the objection.

Mr. Duane: Q. So that you and the informer went into the house?           A. Yes.

Q. You have, as I recall your testimony, testified that subsequently the defendant arrived at the house; is that right?           A. Yes.

(Testimony of Jacob Lieberman.)

Q. And the defendant gave to the informer this can that you have identified? A. Yes.

Q. Is that right? A. Yes.

Q. The informer gave to the defendant the money? A. Yes, sir.

Q. Is that correct? A. Yes.

Q. What happened after that?

A. Well, he counted the money and I asked him, "Is everything there?" He said—he didn't answer for a minute, a few moments, a few seconds, and he was counting the money. I saw him count the money. He said, "It is okeh, everything is there," and he put the money in his pocket and we got to talking, kept on talking for another five or six or seven or eight minutes. I didn't time myself, but that is the best of my [57] judgment. We were there about seven or eight or ten minutes, probably. Before he left he told us, "I am going to get in some heroin; as soon as I get it I will give you fellows the first crack at it." I told Steve, "Okeh, thanks a whole lot."

Q. Then he left? A. Yes, he left.

Q. Then you left, or did you both leave, you and the informer?

A. We left about five minutes later.

Q. You knew, did you not, at that time, that Agent Grady had the house under surveillance?

A. Well, I left him at Fortieth and Irving. I kept going with the informer. Whether he was in the back or whether he was in front of me, or on

(Testimony of Jacob Lieberman.)

the side, I don't know. I had an idea he was in back of me at the time.

Q. As a matter of fact, Grady told you that he was going to be there in the vicinity watching, didn't he?      A. Yes.

Q. Sure, and you had every reason to believe that he was watching the place?

A. I imagine so.

Q. After August 15th did you ever see the defendant again?      A. Yes.

Q. Many times, did you?

A. Yes, yes, many times. I met him on the 16th. That is when he sold us the can of opium. [58]

Q. Well, after the 16th, after this alleged transaction.      A. Yes, yes.

Q. You saw him?

A. I saw him quite a number of times.

Q. On the 16th of August, and prior to the 16th of August, both you and Jimmy Berry were possessed of cans of opium like that, were you not?

A. No.

Q. No?      A. No.

Q. When did you last have any opium in your possession prior to August 16th?

A. I think that was the last time.

Q. That was the last time?

A. Yes. Then I had heroin after that.

Q. When was the time before the last time that you had any opium in your possession? Do you remember when was the last time?



(Testimony of Jacob Lieberman.)

A. That was the last time I had any opium in my possession.

Q. It would be the last time. When was the time before that that you had opium in your possession?

A. I was buying for the Government from different individuals.

Q. When you would buy it for the Government what would you do with it?

A. Give it to them. I put my initials on there and I give it to them. [59]

Q. Did you ever buy any for yourself?

A. No, sir.

Q. Never did.

A. I had no occasion to.

Q. You did not? A. No, sir.

Q. Did Berry buy any for himself, that you know of? A. Not that I know of.

Q. Not that you know of?

A. Not to my knowledge.

Q. Never saw any in his house?

A. Not to my knowledge; I never saw anything in his house.

Mr. Duane: That is all.

### Redirect Examination

Mr. Davis: Q. Mr. Lieberman, you testified on cross-examination that you had met Sorrentino on several occasions prior to the time you saw him smoking opium in the room, but you had never mentioned narcotics to him, that you were waiting for him to come out with it? A. Yes.

(Testimony of Jacob Lieberman.)

Q. If I quote you correctly, is it or is it not a fact that he was the first one who mentioned narcotics to you? I mean as between the two of you, who mentioned it first?

A. Well, he did. The very first time he mentioned narcotics to me, I waited for him to make it first, so he made it first.

Q. That was this night that you found him smoking up in the [60] room?

A. That's correct.

Q. You say on several occasions during the time that you were in the room with the defendant and the informer on the night of the 15th, or early morning of the 15th, that he went down into the lobby and made several phone calls, and then back to your room; is that correct? A. Yes.

Q. Did you have any conversation with the defendant after going to the lobby and after those phone calls? A. Yes.

Q. What was that conversation?

A. He told me he can't contact this party; as soon as he contacts this party this man will bring the can of opium to the hotel.

Q. Did you have a telephone in your room?

A. Yes.

Q. Did you have any conversation with the defendant as to using that telephone?

A. Well, he don't want to use the hotel phone, he wants to use a pay station phone.

Q. You say he didn't want to. Did you get that idea from a conversation you had with him?

(Testimony of Jacob Lieberman.)

A. Yes; he told me that, himself.

Q. To the best of your recollection tell us that conversation that you had about the use of the phone. [61]

A. Well, I told him to "use my phone over here." He said, "No, I don't want to use your phone, Jack; I want to go downstairs to the lobby, there is a pay station, and use the phone down there." I went down there with him. While he was phoning I went to get a package of cigarettes in the slot machine in the lobby. I waited for him to come out of the pay station. Then we both went upstairs to the room.

Q. Tell me, you stated that you haven't had any opium in your possession since that time, you have had heroin. Was that in connection with other cases that you have been working on in your employment?

Mr. Duane: Just a minute. We will object to that as incompetent, irrelevant, and immaterial.

The Witness: A. Yes.

The Court: Overruled.

Mr. Davis: Q. Was it or was it not in connection with Government cases that you were working on?

A. That was in connection with Government cases; that is the only time I ever bought any drugs, was for the Government only.

Mr. Davis: That is all.

(Testimony of Jacob Lieberman.)

Recross-Examination

Mr. Duane: Q. By the way, this matter of the sale of this can that you have told us about, who suggested that sale, do you know? [62]

Mr. Davis: I object to the words "who suggested the sale." I have no objection to the conversation that took place in which the sale arose, but I think the use of the word "suggested" is leading.

Mr. Duane: I think maybe you are right on that.

Q. Were you present at any conversation wherein the defendant engaged with reference to the sale of a can of opium? A. Yes.

Q. Tell us about it.

A. The informer asked Steve Sorrentino to sell him a can of opium.

Q. Yes.

A. Steve told him, "I will bring one" the following day to the hotel, around eleven o'clock at night.

Q. So that the informer asked him to get it?

A. Yes.

Q. Is that right? A. Yes.

Q. Did Sorrentino say he didn't have it, or he would have to get it somewhere, or something of that kind?

A. He said he has got it but he is going to get in contact with somebody who has got it put away for him.

(Testimony of Jacob Lieberman.)

Q. He has to get it from somebody who had it put away for him?      A. That's right.

Q. When did this conversation take place? [63]

A. That was around, I think, the 15th of August.

Q. Around the 15th of August?      A. Yes.

Q. Well, was it on the 15th of August?

A. Yes, sir.

Q. What time of the day?

A. Well—I would say it was around, let me see. I'll tell you when—this started off around 10 p. m. August 14th. He was supposed to bring it August 15th around eleven o'clock at night to the hotel.

Q. The conversation of the 14th—

A. Yes, but we were there for several conversations.

Q. Let's confine ourselves to the conversation now which was on the 14th of August.

A. That's right.

Q. Where?      A. 303, that is my room.

Q. In your room?      A. Yes.

Q. You were present and the man you refer to as the informer was present?      A. Yes.

Q. And the defendant?

A. Yes. They were smoking in my room.

Q. They were smoking in your room? [64]

A. Yes.

Q. Of course, you were not smoking?

A. No, sir.

Q. Then the informer asked the defendant to sell him a can of opium?      A. Yes.

(Testimony of Jacob Lieberman.)

Q. Is that right?           A. Yes.

Q. What did the defendant say?

A. "I'll bring a can over" the following day,  
to the hotel.

Q. "I'll bring a can over" the following day?

A. Yes.

Q. That is what he said?           A. Yes.

Q. "I'll bring you a can" the following day?

A. Yes, "At eleven o'clock."

Q. "At eleven o'clock?"           A. Yes.

Q. Are you using his words now?

A. Well, I am trying to quote some of the words.  
I mean I am not positive of those particular words.  
I know he was supposed to bring one the following  
day.

Q. At eleven o'clock?           A. Yes.

Q. At night?           A. Yes. [65]

Q. That would be the 15th?

A. 15th, that is correct.

Q. Did you see him between the time this conversation took place and eleven o'clock on the 15th, at that time, eleven o'clock that night?

A. The conversation took place, I would say about three, or four, or five in the morning. He left probably about five o'clock in the morning.

Q. Say about four—let's say five in the morning. Did you see him from five in the morning, between five in the morning and eleven o'clock at night?

A. No.

Q. You did not see him at all?           A. No.

(Testimony of Jacob Lieberman.)

Q. But he came in at eleven o'clock and you were in the lobby? A. Yes.

Q. And he didn't have a can then?

A. I don't know whether he had a can with him, or not, but I found out later on he didn't have a can.

Q. It was after that and the same night, or, rather, the early morning of the next day that he was up in your room?

A. Yes. We sat in the room up until seven o'clock in the morning.

Q. It was on that same day, August 16th, that he arrived with the can? A. Yes, sir. [66]

Q. So that we get it all now in sequence, the informer asked him to get him a can of opium?

A. Yes.

Q. Is that right? A. Yes.

Q. Can you relate, or can you tell us what the defendant said in response to that?

Mr. Davis: If the Court please, I object. This questions has been asked and answered, to my knowledge, about five times.

The Court: I think you are going over the same ground, Counsel. I always like to allow wide latitude on cross-examination, but I think you asked him these same questions several times.

Mr. Duane: Well, I don't think he has answered. I don't think I asked that particular question. However, if the Court says I have——

The Court: Well, if there is any doubt in your mind about it, I will allow you to ask the question,



(Testimony of Jacob Lieberman.)

but the question and answer has been given several times. I could repeat it to you, but maybe you did not hear it. If there is any doubt about it you may ask it.

Mr. Duane: I will be guided by what your Honor says. We will let it go.

Q. Who carried the can of opium from the house on Forty-fifth Avenue to Agent Grady? [67]

A. The informer.

Q. The informer. You did not carry it at all?

A. No.

Q. So that all this activity was between the defendant and the informer, and you were an observer? A. Steve knew——

Q. Well, forget about what Steve knew. Answer the question.

The Witness: What was the question, please?

Mr. Duane: May the question be read?

(The question was read by the reporter.)

The Witness: A. No; part of that deal was my deal, also.

Mr. Duane: Q. Well, could you tell——

A. The informer knew it was mine; I was always on the deal.

Q. Tell us how you were in on the deal?

A. Well, I was afraid that Stephen Sorrentino will say "No" to me if I asked him that particular question myself, because I was not at that particular time very, very close with him; the informer was very, very close with him, so I didn't want to ask him, but I told the informer to ask him, himself,

(Testimony of Jacob Lieberman.)

“He will give it to you quicker than he will give it to me.” Therefore, he asked him that question.

Q. You felt you didn’t know him well enough?

A. Well, I know him all right, but I was afraid of that “No.” That is all.

Q. However, the informer asked him in your presence? [68] A. Yes.

Q. He spoke out loud so you could hear it?

A. Yes.

Q. And the defendant answered?

A. Yes.

Q. Is that right? A. Yes.

Mr. Duane: That is all.

Mr. Davis: That is all.

The Government rests, your Honor.

Government rests.

The Court: Mr. Duane, the Government has rested. Do you prefer to have the recess now before you go on?

Mr. Duane: I would like to, your Honor.

The Court: We will take the afternoon recess now. Ladies and gentlemen, please bear in mind the admonition the court has heretofore given you.

(Recess.)

The Court: You may proceed.

(Opening statement made on behalf of the defendant.)

Mr. Duane: I would like to call a couple of witnesses out of order at this time, pursuant to arrangement with counsel.

JOSEPHINE PRIEST,

called as a witness on behalf of defendant; sworn.

The Clerk: Will you state your name to the court and jury? [69]           A. Josephine Priest.

Direct Examination

Mr. Duane: Q. Where do you reside, Mrs. Priest?

A. With my daughter and her husband, Mr. Sorrentino.

Q. Where?

A. 2619 Thirty-eighth Avenue.

Q. San Francisco?           A. Yes.

Q. How long have you lived there?

A. It will be five years on the 23rd of February.

Q. You have been living there continuously?

A. Yes.

Q. For that period; is that so?           A. Yes.

Q. You are at home there every day?

A. Yes, sir.

Q. Mrs. Priest, during the time that you have been living in that house, how many times have narcotic agents called there?

A. Three times.

Q. Three times. Did they engage in any activities while they were there?

A. Well, they searched the house and one man walked up and hit Stevey right in the face.

Q. They searched the house on each occasion?

A. Yes, they did. [70]

Q. Went all through the house?

A. Yes; even my rooms.

(Testimony of Josephine Priest.)

Q. And into your room? A. Yes.

Q. In every room?

A. Yes, and the basement.

Q. On one occasion you say one of the agents struck your son-in-law?

A. Yes; Mr. McGuire.

Q. What? A. Mr. McGuire.

Q. Were they in everybody's presence at that time? A. Yes.

Q. On any occasion that they searched that house did they find anything that they took away with them, any narcotics? A. No.

Q. Do you know whether any agents of the narcotics division dug up your garden in the back of the house? A. No.

Q. They didn't do that. I think that is all.

#### Cross-Examination

Mr. Davis: Q. Mrs. Priest, how long have you known the defendant?

A. Oh, about eight years.

Q. Eight years. When was he married to your daughter? [71]

A. Five years this January.

Q. Then do I understand you, Madam, that during the last five years you have resided with him and your daughter in their home? A. Yes.

Q. You say that on three occasions narcotics agents came to your or to his house, is that correct?

A. Yes.

Q. Can you tell me about when the first time—withdraw that.

(Testimony of Josephine Priest.)

A. Well, the first time there was a soldier wanted to go back East, and they had agreed to lend him some money to go back on. He came out to the house and he brought a blanket and his jacket and he said, "I'll leave there here"—

Q. Just a moment. I don't think you are answering my question. Can you tell me the first time? What year was it?

A. It was the first year we were there. That would be five years ago this coming spring, I believe.

Q. Then it would be probably in 1942; is that correct?

A. I think it would be.

Q. Who were there on that occasion, if you can recall?

A. Mr. McGuire was the only one I knew, and then there was the U. S. Marshal, but I don't know what his name was.

Q. There was a marshal?

A. There was four men, I believe, at that time.

Q. How did you know they were narcotics agents?

A. I don't know. They had a warrant. He said he was the U. S. [72] Marshal.

Q. Do you know whether there was a U. S. Marshal there, or not?

A. Yes. One was a U. S. Marshal because he showed me his credentials before I opened the door for him.

Q. Well, there was a U. S. Marshal there and he had a warrant?

A. Yes.

(Testimony of Josephine Priest.)

Q. What was the warrant for, do you know?

A. To search the house.

Q. Was it for anything else?

A. Well, I believe that was the time they were searching the house for Government goods that someone told them the house was full of.

Q. Wasn't it, in fact, a warrant of arrest for Mr. Sorrentino, the defendant Steve Sorrentino, rather than a search warrant?

A. No. They had a search warrant. At least, that is what he told me it was.

Q. That was served by the U. S. Marshal. Who else was in the house at the time?

A. There was my daughter.

Q. Was the defendant there?           A. Yes.

Q. When you say that narcotics agents came there three times, at least on this one occasion you are basing that statement on the fact that Mr. McGuire was with the Marshal; is that correct?

A. Yes. [73]

Q. There were two or four other men. You don't know who they were?

A. No, I didn't know them.

Q. That is the first occasion. When was the next occasion after that?

A. Well, I don't know. It might have been another year; I don't remember.

Q. Would you say it was more than a year later or less than a year, or about a year?

A. I imagine it was around about a year.

Q. Who came on that occasion?



(Testimony of Josephine Priest.)

A. Well, McGuire was there that time.

Q. Who else?

A. If I remember right, but I don't know who the rest of them were. He is the only one we knew.

Q. Did they tell you they were narcotics agents?

A. Yes.

Q. Did they have a search warrant then?

A. Yes.

Q. They searched the premises; is that correct?

A. Yes.

Q. They didn't find any narcotics?

A. No.

Q. You are sure they were looking for narcotics on that occasion? [74]

A. Well, I asked them, I said, "What are you searching my room for?" He said, "Ask Stevey."

Q. You say on the first occasion, however, they were looking for some Government property that was supposed to be there?

A. Yes.

Q. When was the third occasion when they came?

A. I couldn't tell you what the date was. It was not very long. There were nine men came out.

Q. Well, we have once in 1942 and once about a year later in 1943. How much later after that was the third search?

A. Well, I don't remember.

Q. Would you say it was more than a year?

A. Possibly; might have been a year ago.

Q. Might have been a year ago?



(Testimony of Josephine Priest.)

A. Might have been that long; I don't remember. I never thought anything about the date.

Q. Well, we have once in 1942 and once about a year later in 1943. How much later after that was the third search?

A. Well, I don't remember.

Q. Would you say it was more than a year?

A. Possibly might have been a year ago.

Q. Might have been a year ago?

A. Might have been that long; I don't remember. I never thought anything about the date.

Q. You mean from what date it might have been a year later? [75]

A. No, it was not that long; it was no more than about eight months ago.

Q. Eight months from this date?

A. Yes, from now, back.

Q. Who came out that time?

A. This gentleman, here, was the only one I remember, this one, and the other gentleman sitting back there, I believe.

Q. What occurred then?

A. Well, they searched the house.

Q. Did they have a warrant at that time?

A. I don't think they had, but they told me they did have when I opened the door.

Q. By the way, was Steve there?

A. Yes. He was home in bed.

Q. Well, as a matter of fact, that was the day they arrested him on this charge, wasn't it?

A. Yes, I think it was.

(Testimony of Josephine Priest.)

Q. So we have them now at your house on three occasions when they were with a United States Marshal serving a search warrant for alleged stolen Government property, another time about a year ago when McGuire was there, you knew he was there? A. Yes.

Q. And then this last time when they arrested the defendant; is that correct? A. Yes. [76]

Q. You say they did not find any narcotics there? A. No.

Mr. Davis: That is all.

Redirect Examination

Mr. Duane: Q. Mrs. Priest, you have related now three occasions and you also have testified on your direct examination on one of your occasions the defendant was struck by one of the agents.

A. Yes, he was.

Q. On which one of those occasions?

A. The first time they were out.

Q. The first time? A. Yes.

Q. You think that was about in 1942; is that right?

A. I think so; possibly about three or four years ago.

Mr. Duane: That is all.

## BERNARD REICHLING,

called as a witness on behalf of defendant; sworn.

The Clerk: Q. Will you state your name to the court and jury? A. Bernard Reichling.

## Direct Examination

Mr. Duane: Q. Mr. Reichling, you are a member of the San Francisco Police Department? [77]

A. I am.

Q. Attached to the special service detail?

A. That's right.

Q. You have been a member of the Department for several years? A. I have.

Q. You know Thomas McGuire, a Federal narcotics agent, do you not? A. I do.

Q. You are familiar with the home of the defendant Sorrentino, here, in San Francisco, out on Thirty-ninth Avenue?

A. Well, I wouldn't say I was familiar with it. I was in it once.

Q. Can you tell us about when that was?

A. That was three or four years ago, I believe.

Q. Did you go there with Agent McGuire?

A. He was one of the officers.

Q. There were several other officers, were there not? A. Yes.

Q. Do you recall seeing this lady, Mrs. Priest, who was just on the stand?

A. Yes, she was there.

Q. On that occasion, the occasion of your visit, was that house searched?

A. Yes, it was searched.

(Testimony of Bernard Reichling.)

Q. Did you see Agent McGuire strike the defendant? [78]

A. I didn't see the actual blow. I will have to go into a little description of this. As you enter the door, as I recall, the living room was a little bit to the left. You come to the living room. I believe you go through a sort of arch into a little center hallway. In that hall was either a linen closet or stairway going downstairs. At the time I turned away from McGuire and Sorrentino I turned around, I was either going to open the door to go downstairs or to search the linen closet, and Sorrentino was standing and McGuire was talking to him, and the words got kind of loud, and I turned around as Correntino said, "You don't have to do that." But at that time he was then sitting in a chesterfield. I think he had a robe, bathrobe on.

Q. He was sitting on a chesterfield?

A. The last time I saw them they were standing up and there was a little argument going on. I was searching, was going to go downstairs, and then when I turned back again, why, Sorrentino was sitting in the chesterfield, and he said, "You don't have to do that."

Q. Did he have his hand up to his face?

A. I don't recollect. I assumed that he was hit. I was right there within ten feet, but I didn't see what actually took place.

Q. On that occasion there was narcotics or anything of that kind found as a result of the search?

(Testimony of Bernard Reichling.)

A. No, I don't think there was, no.

Mr. Duane: That is all.

### Cross Examination

Mr. Davis: Q. How long have you been in the Police Department? A. About 16 years.

Q. For a long part of that time you were assigned to the narcotics division of the Federal Government as assisting from the police department?

A. Well, it has been eleven years, between the State and the Federal Bureaus. I was there on the Federal Bureau for sometime.

Q. It is a fact, is it not, that the San Francisco Police Department makes a practice of assigning one or two of its officers to each one of the governmental enforcement agencies to assist?

A. They did up until the shortage of men, and I was called off the detail on October 23, 1944.

Q. Directing your attention to this time that you went out to the Sorrentino home, who, to the best of your recollection, was with you at that time?

A. Well, there was Narcotics Agent Tom McGuire, and there was a deputy United States marshal; I believe it was Warren Cain, and I believe there was an FBI man, a man from the Federal Bureau of Investigation, I believe he was there also. I don't know who he was. As I recall, there were four of them. One [80] was from the FBI, and the Marshal's office, and I was from the Police Department, and McGuire from the Narcotics Bureau.

(Testimony of Bernard Reichling.)

Q. Do you know whether or not the marshal had a warrant at that time?      A. He did.

Q. Do you know whether or not it was a warrant for the arrest of the defendant, or a search warrant?

A. I am not sure of that. I knew he had a search warrant. We took Sorrentino with us. I don't remember whether we actually had a warrant of arrest.

Q. Do you know what was the purpose of your going out there?

A. It was regarding stolen Government goods, or the receiving of stolen goods.

Q. You say that you did not find any narcotics when you made the search; is that correct?

A. Not that I recall. I don't believe that there was.

Q. As a matter of fact, you weren't going out there for the specific purpose of searching the property for narcotics, were you?

A. Well, I was searching it for anything I could find, stolen goods and narcotics.

Q. But the actual purpose of that particular visit was because there was suspicion that there was stolen Government property in the premises?

A. That's right. [81]

Q. Did you find any Government property in the premises?      A. I did not.

Q. Did anyone else, to your knowledge?

A. Well, to the best of my knowledge or remembrance, I believe a blanket and one of these field jackets like an Eisenhower jacket; I am not very



(Testimony of Bernard Reichling.)

clear on that, either, because I only went out to help them search the place. I didn't work on the case, nor did I follow it up. Just that one day that I went out there.

Q. This incident where Agent McGuire is supposed to have struck the defendant, you, of course, as you testified, of your own knowledge did not see McGuire actually strike him, did you?

A. No, I did not.

Q. But you feel from the tenor of the conversation which took place after that that he had struck him?

A. Yes, that is what caused me to turn around. I thought that trouble was going to start.

Q. Did you know anything that led up to that blow, if it was struck, or any subject of conversation that gave you an inkling as to why it might have taken place?

A. Well, the boys were getting loud, and, as I recall it, Mr. McGuire told Sorrentino to take his hand out of his pocket, and then the next thing I turned around and heard Sorrentino say, "You don't have to do that," and he was sitting on [82] the chesterfield.

Mr. Davis: That is all.

#### Redirect Examination

Mr. Duane: Q. Mr. Reichling, do you know whether any Government property was found at Sorrentino's house that was stolen property?

A. I am not clear on that, but I understand that there was a jacket, or some blanket.



(Testimony of Bernard Reichling.)

Q. Well, isn't it a fact that that jacket belonged to a soldier who had been at the house?

Mr. Davis: I object to that.

Mr. Duane: I am asking if he knows.

The Witness: I don't know.

Mr. Duane: Q. You don't know?

A. No.

Mr. Duane: That is all.

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GEORGIA BECKWITH

called as a witness on behalf of defendant; sworn.

The Clerk: Will you state your name?

A. Georgia Beckwith.

Direct Examination

Mr. Duane: Q. Where do you reside, Mrs. Beckwith?

A. 4684 Fair Avenue, Oakland.

Q. You are the wife of Ward Beckwith? [83]

A. Yes.

Q. You are the sister-in-law of the defendant?

A. Yes.

Q. How long have you been living in Oakland?

A. Well, we bought a home there five years ago.

We have been there about seven and a half years.

Q. While you were living in Oakland were you visited by narcotics agents? A. Yes, I was.

Q. Mr. McGuire and some other men?

A. I didn't know their names.

Q. You didn't know their names? A. No.

Q. Can you tell us when that was, approximately?

(Testimony of Georgia Beckwith.)

A. That was five years ago, in the summer. It was around August, September; I don't remember.

Q. Five years ago in August or September?

A. Yes.

Q. Did these agents tell you what the purpose of their visit was?

A. No, they did not.

Q. Did you have some conversation with them?

A. Yes. They came in and asked me who I was, and if I had known Stevey and my sister. I said yes.

Q. Will you speak up, please? [84]

A. They asked me——

Q. Did they say anything about Steve Sorrentino to you?

A. They asked me if I knew anything about him being at the river. I said yes, I had been up there for two weeks.

Q. By the way, did the defendant have a place up on the Russian River?

A. Yes, he had a cottage.

Q. At that time? A. Yes.

Q. You had been up there with your children?

A. Yes.

Q. Do you recall anything else they said to you?

A. Asked if I knew other people who had been up there. I told them no, I did not.

Q. Well, did they say anything to you about Steve?

A. Well, all they asked me was about the people that came up to see him.

(Testimony of Georgia Beckwith.)

Q. Well, did they ask you if you knew he was dealing in narcotics?

Mr. Davis: I am going to object, your Honor. I have not so far, but counsel's questions are leading.

Mr. Duane: All right, your Honor. I will withdraw it.

Q. Did they say anything else to you?

A. Well, they asked me questions about what he did. I told them I didn't know. [85]

Q. Is there anything else you can recall?

A. No.

Mr. Duane: All right. That is all.

Mr. Davis: That is all. No questions.

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## WARD BECKWITH

called as a witness on behalf of the defendant; sworn.

The Clerk: Will you state your name to the court and jury?

A. Ward Beckwith.

## Direct Examination

Mr. Duane: Q. Where do you reside, Mr. Beckwith?

A. 4684 Fair Avenue.

Q. Oakland? A. Yes.

Q. What is your occupation?

A. I am a marine engineer at the American Bureau of Shipping.

(Testimony of Ward Beckwith.)

Q. And you have been for sometime?

A. Yes.

Q. You are the husband of Georgia, this lady who was just on the stand? A. Yes.

Q. Let me ask you if you were visited by agents of the Narcotics Division at any time.

A. Yes, sir. I was over here in the California Hotel from June, July and August in 1942, 1941, and one afternoon—I was [86] superintendent of construction at Moore's Shipyard at that time, and in the afternoon, I came home about 1:30 that afternoon, and there was a note in my box. It said, "We would like to see you." I looked over in the corner and there were two gentlemen there in the corner. They motioned to me. I went over and I asked them what they wanted, and they said they would like to talk to me, and if I objected. I said No. I said, "Would you like to come up to the room?" They decided to sit in the lobby. So they sat there. They asked me what I did. I told them. They said, "Well, we know what you do, we have checked on you." I said, "Well, what is this for?" Then they said, "Do you know Steve Sorrentino?" I said, "Yes, he is my brother-in-law."

They said, "Have you ever been into his home?"

I said, "Several times we have been over there for dinner and they have been out at our place."

They said, "Have you ever been to his place on the Russian River?"

I said, "Yes," I had, that I had spent a week end up there not too long ago, and they asked me if I

(Testimony of Ward Beckwith.)

knew anyone up there. I said, "Well, I couldn't remember the name, but there was a man and a blonde lady, plus my wife and three children, and I had taken Jerry Cornett, a friend of mine, and his wife with me, and we spent the week end and came back. They asked me if I saw anything funny going on. I asked him what he meant. [87] He said, "We are just checking up. We know you are telling the truth, because we have checked on you and we know what you do, and we know why you are separated from your wife." I said, "Well, I am not separated from my wife," and I straightened them out on that. They were very courteous to me all the time we had our conversation, and I answered the questions, and told them if I could help them at any time I would be glad to. That is the best of the conversation that I remember.

Q. Was anything said by either of those men with reference to the defendant and narcotics?

A. No, the word "narcotics" was never brought into the conversation. They asked me what Steve did. I told them that I didn't know, that our acquaintance was merely formalities of Christmas or birthdays, or something such as that. They were very pointed, asking me about friends. They said, "We know where Steve is, we know everything he is doing, but we are checking on"—then they mentioned a name that I could not remember now even if it was mentioned to me, but that was the gist of the conversation while we sat there.

Mr. Duane: That is all.

(Testimony of Ward Beckwith.)

Mr. Davis: No questions.

Mr. Duane: That is as far as I can go today, if the Court please.

The Court: You will have your other witnesses here in the morning? [88]

Mr. Duane: Yes, your Honor, I will.

The Court: Ladies and gentlemen: It appears that two witnesses who have been subpoenaed by the defense have failed to appear, appear, and it will be necessary for us to take an adjournment until tomorrow morning. I understand that the evidence will be finished and the case submitted to the jury tomorrow, so there won't be any lost motion by reason of the fact we are adjourning somewhat earlier today. We will resume the case tomorrow morning at ten o'clock. The jury will return at that time. In the meantime, please still keep in mind that it is your duty not to discuss this case among yourselves or anybody else, nor are you to form or express any opinion concerning the case until it is finally submitted to you for decision. You may be excused until tomorrow morning at ten o'clock.

(An adjournment was thereupon taken until tomorrow, Wednesday, January 15, 1947, at ten o'clock a.m.) [89]

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Wednesday, January 15, 1947, 10:00 o'clock a. m.

The Court: The jurors are all present. You may proceed.



ISADORE CHIERNEY

called as a witness on behalf of defendant; sworn.

The Clerk: Will you state your name to the court and jury?

A. Isadore Chierney.

Direct Examination

Mr. Duane: Q. Will you speak up so the jury can hear you? What is your occupation?

A. I work at the Uptown Hotel, houseman.

Q. What? A. Houseman.

Q. As such houseman, are you familiar with the rooms in the basement of that hotel which are known as the tool room—— A. Yes.

Q. And the dark room?

A. Well, the tool room is the room that I work in.

Q. There is a door that leads from the tool room to the dark room? A. Yes, there is.

Q. Can you go through that door?

A. No. That door was locked. There is a padlock on it. [90]

Q. That is from the——

A. From the tool room to the dark room.

Q. From the tool room to the dark room?

A. Yes.

Q. Was there anything else on that door on the tool room side?

A. Yes, there was a bench right in the doorway, 36 inches wide.

Q. Across the doorway?



(Testimony of Isadore Chierney.)

A. Across the doorway, and a shelf on top of the bench.

Q. Across the panel of the door? A. Yes.

Q. There was a shelf? A. Yes.

Q. Do you know the contents of that shelf?

A. Yes, tools and supplies that I use for the hotel.

Q. Let me ask you if there are any nail holes in the panel of that door.

A. Well, there was a few nails in there, but there were no holes in there.

Q. There were some nails stuck in there?

A. Yes.

Q. But no holes that went right through?

A. No holes in the panel, no.

Q. When was the last time you looked at that door?

A. Well, I go in there every day.

Q. When was the last time you looked at it? [91]

A. Well, the other day, I think it was Monday.

Q. Wasn't it yesterday? A. Yes.

Q. I was there with you? A. Yes.

Mr. Duane: That is all.

#### Cross-Examination

Mr. Davis: Q: Mr. Chierney, how long have you been employed at the Uptown Hotel?

A. One year and a month.

Q. What? A. One year and a month.

Q. Four—

A. No. One year and one month.

(Testimony of Isadore Chierney.)

Q. One year and one month?

A. That's right.

Q. You were not employed there on August 16, 1945, were you?      A. No, I was not.

Mr. Davis: That is all.

Redirect Examination

Mr. Duane: Q. Mr. Chierney, when you went there to work——

A. That's right.

Q. The tool room was there, wasn't it?

A. Yes.

Q. The dark room was there? [92]

A. Yes.

Q. The bench and the shelf were there?

A. That's right.

Q. And there were no holes in the door?

A. I never seen any holes in the door.

Q. Since you have been there the hotel has been renovated, has it not?

A. That's right.

Q. But the same doors are on there?

A. The same door is on there.

Mr. Daune: That is all.

Recross-Examination

Mr. Davis: Q. When you say the same door, obviously you mean the same door is there now that was there when you first went to work?

A. Yes.

Q. One year and one month ago.      A. Yes.

(Testimony of Isadore Chierney.)

Q. You don't know anything about what was there before?      A. No, I don't.

Mr. Davis: All right.

#### Further Redirect Examination

Mr. Duane: Q. By the way, let me ask you this: The door from the outside leading into the tool room, and the door from the outside leading into the dark room, are they both on [93] the same wall? Do they run in together, run along together, one next to each other?

A. No, it is about ten feet away from one to the other, I believe.

Q. And around a corner?      A. Yes.

Q. As a matter of fact, the door to the tool room is on one hallway?      A. Yes.

Q. And the door to the dark room is around the corner?      A. Around the corner.

Q. On the other side?

A. On the other side, yes.

Q. Let me ask you this: About how far from the door to the pool room is the staircase leading downstairs.

A. Oh, I believe it is about 15 feet, 15 to 18 feet.

Q. Can you give the jury some idea of the position of that staircase as regards the door? Is it directly behind the door or is it ahead of it, or on the side?

A. It is, well, it would be on the side, on the other side of the——

Q. It is beyond the hallway?

(Testimony of Isadore Chierney.)

A. Yes, beyond the hallway.

Mr. Duane: That is all.

Mr. Davis: That is all. [94]

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STEPHEN SORRENTINO

the defendant, called in his own behalf; sworn.

The Clerk: Will you state your name to the court and jury?

A. Stephen Sorrentino.

Direct Examination

Mr. Duane: Q. You are the defendant here?

A. Yes.

Q. Where do you live?

A. 2619 Thirty-eighth Avenue.

Q. You are a married man? A. Yes.

Q. You live at that address with your wife and your mother-in-law? A. Yes.

Q. You are buying that home, are you?

A. Yes.

Q. Do you know a man by the name of Jerome Berry? A. Yes.

Q. Do you know the man who was here yesterday, testified yesterday, by the name of Lieberman?

A. Well, I have seen Mr. Lieberman; I have seen him.

Q. Well, you talked with him, haven't you?

A. Yes.

(Testimony of Stephen Sorrentino.)

Q. Did you know him under the name of Lieberman?      A. No.

Q. What name did you know him by? [95]

A. Mandel.

Q. Can you tell us approximately when you first met him?

A. Well, I couldn't say when I first met him, but this Berry, he had come with a group of fellows that last summer and rented my boat.

Q. Just a minute. I want to get to Lieberman. Have you any idea when you first met him?

A. Well, it must have been around the end of 1945, sometime.

Q. You heard his testimony. He says he met you on the 8th of August, 1945.

A. He probably did.

Q. That is about right?

A. Probably right.

Q. Prior to that time you had met Berry?

A. Yes, on several occasions.

Q. How did you meet Berry and him?

A. Well, I run a party boat for fishing. I take fishing parties out, and he came with a group of people, and there was a fish run up in Martinez, and he came up several times; I had taken his party out.

Q. Did Berry have a camera?      A. Yes.

Q. I will show you a photostat and I will ask you if you ever saw that before.

A. Yes. This is taken on my boat.

Mr. Davis: I am going to object unless Mr.

(Testimony of Stephen Sorrentino.)

Duane makes [96] an offer of proof. There must be some reason to show why the introduction of this photograph is not incompetent, irrelevant, and immaterial.

Mr. Duane: What?

Mr. Davis: I say I will object to any question about that photograph now unless there is some offer of proof to indicate whether it is going to be competent, or material.

Mr. Duane: All right. I will withdraw it, then.

Q. I will show you the photograph and ask if you ever saw that before.

A. Yes. That is Jerome Berry. That is not his wife, but another woman.

Q. But that is Berry? A. Yes.

Q. Was that picture taken on your boat?

A. No; on the float going to the boat at Martinez.

Mr. Duane: We will offer this for identification.

Mr. Davis: I really don't know what the purpose is, your Honor. If I knew I might be in a position either to object or not to object. So far the picture of Jerome Berry is just being offered for identification. What are you trying to do?

Mr. Duane: Well, it is only for identification. When we get to the point of putting it into evidence then I will make my showing.

The Court: All right. Let it be marked for identification. [97]

(The photograph was marked Defendant's Exhibit B for identification.)

(Testimony of Stephen Sorrentino.)

Mr. Duane: Q. When was this photograph taken?

A. It must have been around June of 1945.

Q. June of 1945? A. Yes.

Q. Did you meet him on several occasions?

A. Yes, quite a few times.

Q. Did you ever visit Berry at the Uptown Hotel?

A. Yes. I used to keep my fish in the icebox at the Uptown Hotel.

Q. Under what circumstances did you meet Mandel, or Lieberman?

A. Well, I seen Mr. Lieberman a couple of times around that hotel and I came in, up in Jimmy Berry's room, and this Mr. Mandel he had a room next door, so I used to come in there to go up and see Berry once in a while, and that is how I happened to meet him.

Q. The door between the two rooms was kept open, was it not?

A. All the time, yes.

Q. Did you ever have any conversation with Lieberman, or with Berry, in the presence of Lieberman, with reference to narcotics?

A. No, sir.

Q. Let me ask you if you ever smoked opium up in either Mandel's room or Berry's room? [98]

A. No. I never smoked opium up there. That is why I left that hotel, because I seen it smoked up there, right in Mr. Mandel's room, and that is why I got away from there.



(Testimony of Stephen Sorrentino.)

Q. About when was that, when did you get away from there?

A. Well, that must have been around August, sometime.

Q. Of what year, 1945? A. 1945.

Q. You have not been back there since?

A. No.

Q. You have not gone to that hotel since?

A. Well, I have been back once or twice, or something, but that is after he had been out of it.

Q. Since Berry has been out of there?

A. Yes.

Q. By the way, Berry worked for that hotel, didn't he?

A. Well, he was supposed to have been the clerk there, or something. He had the run of it, anyway.

Q. You have been convicted of a felony?

A. Yes.

Q. Drawing your attention now to the 15th of August, 1945, were you in Berry's room on that day? A. No, I don't think so.

Q. Don't say—don't give us what you think. If you know.

A. No. I was not there. I was not in Berry's room that day. I had got a phone call from Berry at my house to go to his house [99] on Forty-fifth Avenue, and I went there.

Q. I am talking about the day before that, the 15th. Were you in the Uptown Hotel on that day?

A. No, I was not there the day before.

Q. You are sure of that?

(Testimony of Stephen Sorrentino.)

A. I am positive of that.

Q. Let me ask you if you were there in this dark room in the basement of the Uptown Hotel.

A. Yes, lots of times.

Q. You were in there many times?

A. Yes.

Q. What was in that room?

A. Well, it was a regular dark room. He had basins and things to develop pictures. He had camera film.

Q. By the way, when you were in that room, do you know where the door was located that leads into the tool room? You know where that door was on the wall?

A. Yes.

Q. Do you?

A. The one that you go into the dark room?

Q. No. The door that leads from the dark room to the tool room.

A. Yes.

Q. Let me ask you if there was anything hanging in front of that door on the dark room side.

A. Well, there was one of them—it was a closet, like, that [100] came down and had shelves on it.

Q. You mean a cabinet?

A. A cabinet.

Q. That was on the door?

A. Right on the door. It was right over the door, yes.

Q. On August 16th you say you did go to the Berry house?

A. Yes.

Q. Was that along about five o'clock in the afternoon?

A. Well, I know it was in the afternoon, sometime; I wouldn't say it was five o'clock.

(Testimony of Stephen Sorrentino.)

Q. When you went there did you have anything on your person in the way of a can?

A. No, sir.

Q. Let me show you this can, Government's Exhibit No. 1. I will ask you if you had that can in your possession when you went to that house.

A. No, I never had it, no.

Q. Did you ever have that can in your possession?

A. I never seen that can before.

Q. How long were you in Berry's house that day?

A. Well, he called me up, he borrowed a camera from a friend of mine, which he has still got and has not returned yet, and the camera is an expensive camera. I was trying to get the camera back; that is what I was trying to do that day, and he kept stalling me, and kept stalling me. He showed me [101] a—he was showing me a tripod or something that he was going to put this camera up on. That is what he showed me.

Q. When you went to that house that day was Lieberman there?

A. Well, he came in; he came in after I had been there. I was talking to Mrs. Berry. She was there, and we were in there talking in the kitchen, and he came in, this Mandel came in.

Q. Did you leave the house before Lieberman left there?

A. Oh, yes, yes. I was just there about, I don't know how long, about a half hour, and I left.

(Testimony of Stephen Sorrentino.)

Q. Was any money given to you in that house that day?      A. No, sir.

Q. You know several of the narcotic agents, don't you?      A. I do.

Q. They have been paying visits to your house; is that ight?      A. Quite a bit, yes.

Q. How many times have they visited your house out there on Thirty-eighth?

A. Well, four—three times out here and they got me run out of about three or four apartments here. They used to come in when I wouldn't even be there, my wife, to the place on Filbert Street, they went and told them my wife was a narcotic user, and the manager of the house, well, naturally, she was very nice about it, but they told us to move, and I had all that trouble until I got this home.

Q. Have they visited your home?

A. Yes. [102]

Q. You say three times?      A. Yes.

Q. Searched it each time?      A. Every time.

Q. Do you know whether or not narcotic agents stationed themselves on adjoining houses to watch your house with spy glasses?

A. Well, I heard that.

Q. Of course, you don't know of your own knowledge?      A. No.

Q. Were you struck?      A. Yes.

Q. By any narcotics agent?      A. Yes.

Q. In your home?

A. Right in the presence of everybody. It didn't

(Testimony of Stephen Sorrentino.)

make any difference; there were four or five people there.

Q. Have you been followed on the street?

A. Yes, quite a bit. The last six or seven years I have been followed and followed, and continually followed all the time.

Mr. Duane: I think that is all.

Cross-Examination

Mr. Davis: Q. What is your occupation?

A. I run a boat for fishing parties.

Q. How long have you been engaged in that occupation?

A. That is since I quit the shipyard. [103]

Q. When was that?

A. About three, about four years, three or four years.

Q. How long did you work in the shipyard?

A. Oh, about three or four months, until I couldn't work there no more, until I was supposed to be peddling narcotics over there, so I got out of there.

Q. Let's see. You say you quit the shipyard three or four years ago.

A. In 1943, sometime.

Q. Since then have you followed this fishing boat? A. Yes.

Q. That is your sole means of livelihood?

A. No, not exactly. I am interested in a hotel.

Q. What hotel? A. The Vernon.

Q. The Vernon Hotel. Where is that?

(Testimony of Stephen Sorrentino.)

A. On Mason Street.

Q. Where? A. Mason and O'Farrell.

Q. You own an interest in that?

A. Well, I did, but it is sold now.

Q. Where did you operate the fishing boat?

A. Up at Martinez, China Camp, Pittsburg, San Francisco. It is out in Hunters Point right now. [104]

Q. You say you worked in the shipyard three or four months? A. Approximately.

Q. What did you do before that?

A. Well, I made a couple of trips to sea; I drove truck around here.

Q. What were you doing in the month of August, 1945?

A. I was running a fish boat, I was taking out parties.

Q. You say you never smoked opium in the room, in any room in the Uptown Hotel; is that correct? A. No, sir.

Q. You have never had any opium in your possession, is that correct? A. Never.

Q. Did you say you—do you recall whether or not you were in the tool room on August 15, 1945?

A. If I was in the tool room?

Q. Yes. A. No.

Q. Were you ever in the tool room about that time of—the dark room, rather—were you in the dark room on that day?

A. No, I don't believe I was. I don't know what date I was in there. I have been in the dark room



(Testimony of Stephen Sorrentino.)

eight or ten times but if it was that day or not, I don't know.

Q. Isn't it a fact that you were in that dark room about that time and had a conversation with a man there, and he asked you [105] if you brought the can of mud, and you said, "No, I will bring it tomorrow"?

A. That is strictly out, no, I did not.

Q. You never had such a conversation?

A. No, I didn't.

Q. Isn't it a fact the man asked you if you wanted the money for it and you said, "No, I will get the money when I deliver it," the next day?

A. That is not right, no.

Q. But you do recall that on or about August 16th you went to a house out on Forty-fifth Avenue?

A. Yes.

Q. And that Lieberman, the man you knew as Mandel, was out there?

A. Jerome Berry, Mrs. Berry and Mandel was there.

Q. Do I understand your testimony correctly, when I say that you were in the house with Mrs. Berry; is that correct?

A. Myself and Jerome Berry, we were there ten minutes or so before I seen Mandel.

Q. Lieberman or Mandel came in?

A. Yes, that was when he came in.

Q. Isn't it a fact that Lieberman and Berry went in the house when you came in?

A. I couldn't say that; I don't know. I don't know when he came in, because I even asked him,



(Testimony of Stephen Sorrentino.)

I said, "Where did he come from? [106] Who is—Where did this fellow come from?" So he must have been there.

Q. Didn't you know him?

A. Well, I knew him, yes, but I didn't know he was in the house.

Q. Where did he come from then?

A. I saw him walk in the kitchen about fifteen minutes after I was there, he came in the kitchen and we was in the kitchen having a cup of coffee when he came in.

Q. How long did you stay in the house?

A. About half an hour, because that is—I know that is all it is all it was, a half hour.

Q. This cabinet you say that was on the door of the tool room, when was that there——

Mr. Duane: Just a moment. The witness didn't say the tool room.

Mr. Davis: The dark room.

Mr. Duane: Yes.

The Witness: That was there all the time. Every time I went in there it was there.

Mr. Davis: Q. When was the last time you saw it?

A. Well, I don't think I went around there seeing—I don't think I seen Jimmy Berry after the night I seen what was going on in their rooms, I walked out of there. What date that was I don't know.

Q. Was it before or after you went out to this house on Fifteenth [107] Avenue, or Forty-fifth Avenue?

(Testimony of Stephen Sorrentino.)

A. That was after I went out to the house.

Q. You say that your house has been searched on at least three occasions, your present home?

A. Yes.

Q. You say as a result evidently of investigations being made by the narcotics agents you were forced to move from various apartments; is that correct?

A. That is correct.

Q. Also that you have been followed on numerous occasions?

A. Yes.

Q. It is a fact, is it not, that you have bragged to numerous of your friends that you could not be followed?

A. Well, no, I don't know if I have bragged like that. I know I was always being followed.

Q. You believe because people told you that agents were watching your home or because these people told you——

A. I didn't pay no attention to it. They could watch it. I never said nothing about it.

Q. You say on one occasion you were struck by a narcotics agent in your home?

A. That's right. My right eye was fractured?

Q. Who else was there at that time?

A. My mother-in-law and my wife, two narcotics officers and the FBI man and two marshals.

Q. That took place out in your present home?

A. That's correct.

Q. You say you were convicted of a felony. When was that?

A. 1931.

Q. What was the nature of the charge?

(Testimony of Stephen Sorrentino.)

A. Well, it was a narcotics charge.

Q. Narcotics. A. Yes.

Q. Is that a Federal or State offense?

A. Federal.

Q. Is that the only felony you have been convicted of?

A. No. I was convicted another time.

Q. When was that? A. 1934.

Q. What was that for?

A. For having a gun in a car.

Mr. Davis: That is all.

Mr. Duane: That is all. That is our case.

Defendant rests.

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### THOMAS E. McGUIRE

called as a witness on behalf of the Government in rebuttal; sworn.

The Clerk: Will you state your name to the court and jury?

A. Thomas E. McGuire.

#### Direct Examination

Mr. Davis: Q. Mr. McGuire, what is your occupation? [109]

A. Federal Narcotics Agent.

Q. How long have you been engaged in that occupation?

A. The past nineteen years.

Q. Do you know the defendant, Mr. Stephen Sorrentino? A. Yes.

(Testimony of Thomas E. McGuire.)

Q. Do you recall an occasion when you and the marshall and the FBI agent and the police officer, Reichling, of the San Francisco Police Department, went to the home of the defendant?

A. Yes, I do. I recall going there.

Q. What was your purpose in going there on that particular day?

Mr. Duane: Just a minute. I object to that as incompetent, irrelevant, and immaterial.

Mr. Davis: I am entitled to put it in, your Honor, in my opinion, because the defense has raised the point that this man was being bothered and his home was being searched for narcotics by the agents, the theory being that since this man got out of serving time on the last conviction of a felony that the agents have continued to disturb and annoy him, and would not leave him alone. I am entitled now on rebuttal to show why they were in the house, what they were doing, and if they have followed the man or done any of these things that are claimed, if they had probable cause or any reason to do it.

Mr. Duane: We submit the objection, if the Court please. The purpose of this witness certainly is not binding on the [110] defendant, nor is it relevant in this case.

The Court: I will overrule the objection.

Mr. Davis: Q. What was your purpose in going there on that day?

A. To assist in the arrest of the defendant, and serve a warrant of arrest.

(Testimony of Thomas E. McGuire.)

Q. Was there a warrant of arrest issued for the defendant?      A. Yes, there had been.

Q. Do you know what the change was?

A. Receiving United States property.

Q. Did you make a search of the premises?

A. I made a search of the particular room in which we had placed the defendant under arrest, which, I believe he stated at that time, was his bedroom.

Q. Were you searching for narcotics at that time?

A. Narcotics was incidental, but any evidence that I could obtain, but if I could find narcotics I made an effort to find narcotics also.

Q. Did you strike the defendant on that day?

A. I wouldn't say I struck him. He refused to remove his hand from his pocket in which he had a piece of Kleenex, after I had told him—he knew me and I had introduced myself and identified myself as to who I was by the showing of my credentials to him. The United States Marshal had made known his identity and displayed the warrant to him, and told him he was under arrest. The defendant was angry, and he had [111] his fist or his hand doubled up in his pocket. I told him to remove his hand from his pocket and I wanted to take the piece of Kleenex; at that time I didn't know what was in the Kleenex, and I went to reach for it. In a belligerent manner and in a manner which indicated to me that he was going to resist; he attempted to withdraw away from me. I

(Testimony of Thomas E. McGuire.)

pushed, not a push, not very hard, but he sat down in the settee, or, at least, he dropped down in the settee and remained quiet thereafter.

Q. Were you ever present, do you know whether other agents made searches of his home?

A. The agents might have been assisting me while I was there. I believe that I took the foremost part in searching the particular person of the defendant at the time of the arrest. The other agents likewise were searching, but more or less with me.

Q. That is on the one occasion that you have described the defendant claimed that this was where he was living when they searched on the third occasion? Do you know anything about the other two?

A. I know, to the best of my recollection, the year—it was other agents from my office, and I think on more than two occasions except, barring the time he was arrested on this particular charge. He might have been. I was not there at that time. But I know other occasions while arresting the [112] defendant and assisted by other agents, those are the only two occasions that I remember I was there. It is based on memory. I believe I was there twice.

Q. One was the time you have described and one other time?

A. The second time he was arrested, yes.

Q. Were you there at the time he was arrested on this charge? A. No, I was not.



(Testimony of Thomas E. McGuire.)

Q. So you were there twice, and as far as you know the agents who arrested him at this time may have made a search?

A. Yes, that's true.

Q. Do you know whether or not you or any other agents in your office have been following the defendant?

A. I have attempted to follow him on numerous occasions, yes. He has been under investigation by my office and by the State Narcotics Office, and officers from the Police Department on various occasions.

Q. Have you ever gone to any place where he lived and communicated any information to the owner of those apartments?

A. No, I have not. The only place I ever knew he lived, at least of my own knowledge, or at least, knew that he lived there, was the address I have. I have only been working on him since 1942, since I arrived in San Francisco. The only occasion that I had is when I ascertained that he was living out at Thirty-eighth Avenue, that is where I went to, and my investigation was at that neighborhood, so I had no occasion to go anywhere else. [113]

Q. Do you know whether you or any other agent called his relatives, particularly his sister-in-law and brother-in-law, as to his activities?

A. Yes. I recall distinctly the original investigation when I came here to San Francisco. I had no knowledge of where the defendant was living. However, he had been under investigation by other



(Testimony of Thomas E. McGuire.)

officers. I had the benefit of that information. We had learned that he had——

Mr. Duane: Just a minute. We will object.

The Court: Yes.

The Witness: Well, I went to the sister-in-law and questioned—I ascertained from the sister-in-law where the defendant was living at the present time at that time. That was the extent of it.

Mr. Davis: Q. Did you or any other agent, to your knowledge, question his brother-in-law?

A. I was present and spoke to the brother-in-law at the time.

Q. Will you tell me what were your reasons for searching the defendant's home on the occasions other than you have testified to when it was searched when he was arrested on a charge of receiving Government property.

Mr. Duane: I object to that as incompetent, irrelevant, and immaterial.

Mr. Davis: I believe the law is clear that if the defendant raises the point that he has been, as in this case, annoyed, [114] and that his premises were searched by agents, that the Government is entitled in rebuttal to show whether or not the agents had any probable cause to be doing that.

The Court: Well, I think that that is a collateral matter. I don't regard the matter as being pertinent or material to the specific charge here. It wouldn't make any difference whether he was followed by agents or whether they were investigating him, or not. Those are immaterial matters.

(Testimony of Thomas E. McGuire.)

The only question before the jury is whether he is guilty or innocent of the specific charge.

Mr. Davis: My only purpose of introducing it, your Honor, I will grant you that it is immaterial, is in view of the defendant's counsel's statement to the jury as to what he was going to prove, that this man was in fact annoyed and badgered, and if he did commit the offense it was done because the agents had it in for him and they were trying to pin it on him. I believe it is pertinent to rebut the defense.

Mr. Duane: Pardon me. I think I should correct Mr. Davis, I did not say if he did commit this offense he did so because——

Mr. Davis: I did not say you said it. I said that that is what the defense theory is, that if he did commit it he did it because he was badgered.

The Court: I intend to instruct the jury that the only matter for them to consider is the guilt or innocence of the defendant on the charge contained in the indictment. These [115] other matters are immaterial.

Mr. Davis: If that is your Honor's instruction, then I will not ask any further questions along that line and I am through with this witness.

#### Cross-Examination

Mr. Duane: Q. Mr. McGuire, you say that you went over to these relatives in Oakland to ascertain where the defendant was living at the time.

A. Yes, sir.

(Testimony of Thomas E. McGuire.)

Q. Is that right?

A. That is partly the reason, yes.

Q. You say that was partly the reason. What was the other reason?

A. To verify the fact whether the defendant's relations, as I understood from my source of information, were objecting to his selling of narcotics, and I wished to interrogate them along that line.

Q. Did you interrogate them along that line?

A. I don't recall the full conversation, but the fact I had gained some information from the Beckwiths was sufficient at that time when I found that there was a friendly feeling between the defendant and the sister-in-law.

Q. Now, let me ask you if you did not say to her that the defendant was dealing in narcotics?

A. The best recollection that I have of that conversation now, Counsellor, was I asked [116] about Lemonhead Sylvestri, if she knew Lemonhead Sylvestri.

Q. Let's confine it to the **defendant**.

A. Well, that was in conjunction with the defendant. I asked when she had visited the defendant if she had met Lemonhead Sylvestri.

Q. But part of your mission was to ascertain where the defendant was living?

A. Well, that was incidental, yes. I wouldn't say incidental, it was important. The reason why I went there——

Q. You knew at that time——

(Testimony of Thomas E. McGuire.)

A. No, I did not, counsel.

Q. You did not know? A. No.

Q. Let me ask you if you did not say to that lady, Mrs. Beckwith, and also to her husband, that you knew that they had been to the defendant's home place up on the Russian River over a week-end?

A. No, I disagree with you on that, Counsel. I did not say that to the woman. She told me that she had been.

Q. The sister-in-law had told you that that was where Sorrentino was?

A. At that present time she didn't know that he was up at the Russian River.

Q. Then if she states that you told her that you knew that she had been up there, you knew who had been up there, you knew [117] that her husband had been there and that other people had been there, she is incorrect?

A. She is definitely incorrect, because it was after that conversation I had with her that I went to the Russian River and established where the man was living.

Q. When did you call on Mrs. Beckwith?

A. The exact date I couldn't say here, but it must have been sometime in the early part of August, because I arrived in San Francisco approximately the 1st of June and I didn't begin to work—I was assigned by my district supervisor at that time to work on this man from approximately the first of August, so it was within about

(Testimony of Thomas E. McGuire.)

three or four days after I established that Mrs. Beekwith was his relative and from the source of information I had at the time it was that there was a disagreement between them in his manner of living.

Q. Let's go to the matter of the stolen property. As a matter of fact, there was no stolen property, was there?

A. Yes, sir, there was.

Q. Well, as a matter of fact, you arrested the defendant and he was taken before the United States Commissioner down on this floor in this building.

A. I will have to correct that. The United States Commissioner——

Q. Is that so?

A. No. The United States Marshal arrested the defendant. [118]

Q. You came down with him?

A. I won't say I did. I was there with the United States Marshal when he was arrested, and I believe that the marshal took him in his automobile and came down.

Mr. Davis: I object to this as incompetent, irrelevant, and immaterial on the same theory that your Honor has sustained Mr. Duane's objection to my questioning. The only point in ascertaining why Mr. McGuire or the other agents went to that house was to determine whether or not they went there to search for narcotics, or whether they went there for some other purpose.

(Testimony of Thomas E. McGuire.)

Mr. Duane: It is our contention that the issuance of the warrant was a subterfuge to get into the house. I will offer to prove the defendant was brought down here and Mr. McGuire was present in the commissioner's room when there was what is termed a preliminary hearing, and the defendant was turned loose right there. There was no basis for the arrest and the goods were not stolen, and I think the jury is entitled to know that.

The Court: I think the jury has enough to do to try the particular charge without trying half a dozen other matters that have no relationship to the present charge. I would hold that it is incompetent, irrelevant, and immaterial.

Mr. Duane: Well, if the Court please, there is this feature, it would appear that this defendant had also been involved in some other crime, and I think that should be cleared [119] up in the minds of the jurors that he was not.

Mr. Davis: You brought it out.

Mr. Duane: That is all I have in mind.

Mr. Davis: You brought it up.

Mr. Duane: Yes.

Mr. Davis: I certainly did not bring it up.

Mr. Duane: Sure.

Mr. Davis: I will stipulate he was not convicted of receiving Government property.

Mr. Duane: Nor was he held to the court.

Mr. Davis: I don't know about that. All I know he was not convicted of it.

Mr. Duane: Mr. McGuire, while you were in



(Testimony of Thomas E. McGuire.)

that house you say the defendant was very belligerent.

A. Yes, he was.

Q. How was he dressed?

A. He had a bathrobe on, red bathrobe, if I recall correctly.

Q. And had his hands in his pockets?

A. Yes.

Q. Both pockets in the bathrobe?

A. Well, at the moment I entered he had his hands in the pockets but then he was waving his hands wildly and wanted to know each one of us, what the purpose was in coming there, and kept yelling that we had no right to arrest him.

Q. And he had his hand in his pocket? [120]

A. At the moment I was telling about—

Q. As I recall your testimony, his fists were doubled?

A. Well, in the small bathrobe pocket that he had I could see the fist, a white paper with his fist around it, or alongside of it.

Q. Which hand was that?

A. I believe, I would say it was the right hand.

Q. The right hand?

A. As I remember correctly. Now, you are asking me something that happened in 1942, counsellor.

Q. You remember pretty well. He had his hand in his pocket with his fist doubled around a piece of paper in his hand.

A. I won't say the paper was in his pocket. I observed the piece of little paper, or a Kleenex of the same type in which I was interested; he had



(Testimony of Thomas E. McGuire.)

this tissue paper or Kleenex in his pocket, which I observed. Whether it was in his hand or below his hand, or sticking out the edge of the pocket, I won't say.

Q. What about the left hand?

A. I can't answer exactly on that what happened.

Q. Was that in his pocket also?

A. I won't say whether it was, or not. It could be.

Q. Well, I thought—Pardon me. Just strike that. As I recall your testimony you told him to take his hands out of his pockets. [121]

A. Well, whether he did—if you think he did, if he says he had both hands in his pockets I will say he probably did.

Q. He probably did. You told him to take his hands out of his pockets. Did he take them out?

A. Well, it happened rather quickly; I don't know. I won't say whether he took his hands out before I forced him into the settee or he opened his hand first, or what; it happened, it didn't take a split second. I forced him to remain quiet.

Q. How did you force him?

A. Well, there is only one way I could push him back with my hand.

Q. That is what you did?           A. Yes.

Q. You did not strike him?

A. I won't say I struck him, Counsellor.

Q. You would not say that?

A. I did have sufficient force behind my push

(Testimony of Thomas E. McGuire.)

to make him remain quiet and sit down. If he says I struck him then perhaps I did.

Q. You struck him on the face?

A. I won't say that. I thought, if my memory serves me right, that I struck him in the chest, or pushed him in the chest. If I struck him in the face—I don't recall it.

Q. The left eye?

A. I won't say that. There was no mark.

Q. There was no mark?

A. I don't recall any marks on him at the time. I never heard mention of it later on.

Q. Let me ask you if after he was brought down to the Post Office Building, here, and into the United States Commissioner's Office, you being present, you saw the discoloration on his eye?

A. No.

Q. You did not?

A. I don't believe I came down here, Counsellor. I can't recall coming down here. I don't mean to correct you. I am sorry if I did.

Q. No, no.

A. You say I did come down here to the United States Commissioner's Office. I believe my investigation had terminated out at his house. I don't recall coming down.

Q. If I told you I was there with you in the Commissioner's room——

A. That was the date he was arrested, Counsellor?

Q. The day he came up before the commissioner.

(Testimony of Thomas E. McGuire.)

A. Oh, oh. Well, he came up once or twice after that, Counsellor, and I am positive I was not—I never did come down to the Commissioner's hearing, but you told me later on he was acquitted. However, I won't dispute the fact.

The Court: Well, we are taking too much time.

Mr. Duane: All right. I will let it go. [123]

Mr. Davis: That is all. That concludes the Government's rebuttal.

(The cause was thereupon argued by respective counsel, the jury instructed by the court, no exceptions were taken by either counsel to the instructions of the court, the jury retired to deliberate, and subsequently returned into court with a verdict of guilty on count 1 and count 2 of the indictment. The jury was then discharged.)

The Court: Does the defendant wish to make any statement before judgment is pronounced?

Mr. Duane: At this time, if the Court please, I desire to interpose a motion for a new trial in the above-entitled action and I move the court for an order vacating the verdict of the jury convicting the defendant, and grant him a new trial on the indictment for the following reasons:

1. That the verdict is contrary to the evidence adduced at the trial herein and the verdict is not supported by the evidence in this case. That the evidence adduced at the trial is insufficient to justify

the verdict; that the verdict is contrary to law, and that the trial court erred in admitting evidence in the course of the trial which was incompetent, irrelevant, and immaterial, and which errors were duly objected to by the defendant. That motion is made upon the minutes of the court and upon all the records and papers in the case.

The Court: Do you wish to submit that motion? [124]

Mr. Duane: I would like to submit it.

The Court: Well, I believe I passed on the matters raised on your motion during the trial. I will deny the motion.

Mr. Duane: If the Court please, we at this time move in arrest of judgment and we base our motion on the following grounds: That the indictment and each of the counts does not state facts sufficient to constitute a public offense under the laws of the United States; that the evidence is insufficient to support the verdict; that the verdict of the jury is contrary to law, and based on those grounds we move an arrest of judgment.

The Court: That motion is submitted, too, Mr. Duane?

Mr. Duane: Yes, your Honor.

The Court: The court will deny that motion.

(Respective counsel thereupon addressed the court regarding the activities of the defendant and the court declared the sentence as follows:)

The Court: The court wishes to say that in my opinion the defendant has had very able representation in the case, but I cannot pass judgment on the basis of the competency or loyalty of counsel. I must pass judgment on the defendant as I see the case. I have very strong views concerning the enforcement of this statute. I consider the defendant in this case a dangerous character. He is dangerous to the community and he is dangerous to the lives and happiness of [125] thousands of people. He has been convicted by a jury on a charge on which the offense is made severe by the statute.

It will be the judgment of the court that the defendant serve a term of five years in Federal prison on count 1 of the indictment, and that he serve a term of ten years under count 2 of the indictment, and pay a fine of \$1000. The sentences on the two counts will run concurrently, inasmuch as the offense arose out of the same transaction and involves the same can of opium.

Mr. Duane: We will at this time, if the Court please, give notice orally of appeal and I wonder if your Honor will entertain a motion for bail, to fix bail at this time.

The Court: Well, I think you better present that—I would be a little bit in doubt about that, Mr. Duane, as to whether it is a proper case to allow bail, and I think you better, if you want to present that you better give some thought to it and present it to the court formally, perhaps on Monday or Tuesday, or whatever time suits your convenience.

Mr. Duane: Very well, your Honor.

The Court: The defendant will be remanded to the custody of the Marshal. We will adjourn.

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### CERTIFICATE OF REPORTER

I, Kenneth G. Gagan, Official Reporter, certify that the foregoing 126 pages is a true and correct transcript of matter therein contained as reported by me and thereafter reduced to typewriting to the best of my ability. [126]

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[Endorsed]: No. 11533. United States Circuit Court of Appeals for the Ninth Circuit. Stephen Sorrentino, also known as Vincent Sorrentino, Appellant, vs. United States of America, Appellee.

[Endorsed]: No. 11533. United States Circuit Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed February 20, 1947.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.



In the United States Circuit Court of Appeals for  
the Ninth Circuit

No. 11533

STEPHEN SORRENTINO,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS UPON WHICH  
APPELLANT RELIES ON APPEAL

Now comes Stephen Sorrentino, the appellant in the above entitled cause, and submits herein his statement of points upon which he intends to rely on appeal, as follows:

1. That the evidence was and is insufficient to support the verdict of guilty.

2. That the Court erred in sustaining objections to questions propounded on cross-examination relating to one James Berry.

3. That the Court erred in sustaining objections to questions propounded on cross-examination relating to the informer.

4. That the Court erred in overruling appellant's objections to questions propounded by the United States Attorney to a Government witness, the answers to which attempted to establish that appellant had committed other crimes.



Appellant desires that the record, as certified to the Clerk of this Court, be printed in its entirety.

Dated: March 10, 1947.

/s/ WALTER H. DUANE,  
Attorney for Appellant.

Receipt of a copy of the foregoing Statement of Points upon which Appellant relies on Appeal is hereby admitted this 10th day of March, 1947.

/s/ FRANK J. HENNESSY,  
United States Attorney.

By /s/ T. SOLOMON.

